

Exhibit A

Deposition Transcript of Dr. Randi C. Ettner, Ph.D.

GORE, et al.

vs.

LEE, et al.

RANDI C. ETTNER, PH.D.

April 14, 2020



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1 UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF TENNESSEE
3 NASHVILLE DIVISION

4 KAYLA GORE; JAIME COMBS;
5 L.G.; and K.N.,
6 Plaintiffs,

7 vs.

Case No. 3:19-cv-00328

8 WILLIAM BYRON LEE, in his
9 official capacity as
10 Governor of the State of
11 Tennessee; and LISA
12 PIERCEY, in her official
13 capacity as Commissioner
14 of the Tennessee
15 Department of Health,

16 Defendants.

17 Videoconference Deposition of:

18 RANDI C. ETTNER, PH.D.

19 Taken on behalf of Defendants
20 April 14, 2020

21
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I N D E X

	Page
Direct Examination By Mr. Jones	10
Cross-Examination By Mr. Kohli	60

E X H I B I T S

	Page
Exhibit No. 1 Amended Complaint for Declaratory and Injunctive Relief	13
Exhibit No. 2 Expert Report of Randi C. Ettner, Ph.D.	18
Exhibit No. 3 Expert Declaration of Randi C. Ettner, Ph.D.	19
Exhibit No. 4 Expert Report of Randi C. Ettner, Ph.D. in the Ray case	19
Exhibit No. 5 Deposition transcript of Randi C. Ettner, Ph.D. in the Ray case	20

1
2 S T I P U L A T I O N S
3
4

5 The videoconference deposition of
6 RANDI C. ETTNER, PH.D. was taken by counsel for
7 the Defendants, by Notice, with all participants
8 appearing at their respective locations, on
9 April 14, 2020, for all purposes under the Federal
10 Rules of Civil Procedure.

11 All objections, except as to the form of
12 the questions, are reserved to the hearing, and that
13 said deposition may be read and used in evidence in
14 said cause of action in any trial thereon or any
15 proceeding herein.

16 It is agreed that ASHLEY V. MEEKS, LCR,
17 Notary Public and Court Reporter for the State of
18 Tennessee, may swear the witness remotely, and that
19 the reading and signing of the completed deposition
20 by the witness were not waived.
21
22
23
24
25

* * *

MR. JONES: Well, before we mute everyone then I think it would be helpful for the court reporter if everyone would announce their name and who they represent. I'll start, and we can go through the defendants first. My name is Matt Jones. I'm here representing the defendants.

MS. SHEW: Dianna Shew on behalf of the defendants.

MS. SEDGWICK: Sara Sedgwick on behalf of the defendants.

MR. LIM: Jae Lim on behalf of the defendants.

MR. JONES: Okay. Plaintiffs.

MR. GONZALEZ-PAGAN: Omar Gonzalez-Pagan on behalf of the plaintiffs.

MR. KOHLI: Puneet Kohli on behalf of the plaintiffs.

MR. ROESSLER: Brandt Roessler on behalf of the plaintiffs.

MS. BUCHERT: Sasha Buchert on behalf of the plaintiffs.

MR. JONES: And I think --

MR. KOHLI: For the record, I'll be the

1 one making objections.

13:05:53

2 MR. JONES: Okay. Great.

13:05:53

3 So I think for everyone's purpose, if
4 everyone who would not be speaking to go ahead and
5 mute their audio except of course the court reporter
6 at this time.

13:05:54

13:05:56

13:06:01

13:06:09

7 And if you have no objection, Puneet,
8 we'll go ahead with the court reporter and swear in
9 the witness.

10 MR. KOHLI: Sure.

11 MR. JONES: Great. Ms. Meeks, if you
12 would proceed.

13 THE REPORTER: Yes, sir.

14 (The witness was sworn.)

13:06:50

15 MR. JONES: So I understand that the
16 defendants and the plaintiffs had some stipulations.
17 Were those read into the record yesterday? Do we
18 need to put any more stipulations on before we
19 proceed?

13:06:50

13:06:52

13:06:54

13:07:07

13:07:11

20 MS. SHEW: This is Dianna.

13:07:11

21 Yesterday our stipulations were -- that I
22 recall were that the witness was going to be sworn
23 remotely. That would be bound by the oath as if
24 sworn in person. All objections are reserved except
25 as to the form of the question. And we made a

13:07:14

13:07:17

13:07:18

13:07:21

13:07:26

1 general announcement that of course we were all on a 13:07:29
2 WebEx Meeting. 13:07:32

3 The other thing we discussed was that 13:07:32
4 although we can all see each other and this is a 13:07:34
5 video platform, the deposition is simply being 13:07:39
6 recorded by stenographic means and there's not a 13:07:40
7 video recording being made. I don't believe any 13:07:45
8 party has requested that. 13:07:48

9 And then the court reporter actually had 13:07:50
10 some comments that she wanted to make just for 13:07:53
11 purposes of keeping everybody on task with the WebEx 13:07:57
12 and making sure that her transcript was clean. So 13:07:58
13 Ms. Meeks may want to do that as well. But those
14 were the only stipulations that I recall from
15 yesterday.

16 MR. JONES: Thank you. Ms. Meeks.

17 THE REPORTER: Yes, sir.

18 For the sake of the record, I ask any
19 objecting attorney to also identify themselves when
20 making their objection.

21 It is very important that one person
22 speak at a time. So with each question
23 asked or answer given, please give a short pause
24 before responding in order to ensure the previous
25 speaker has finished, as well as giving enough time

1 for potential objections.

2 Please keep in mind that because this is
3 a video call that's dependent on audio there may be
4 cases where I may ask for further clarification more
5 often than normal. I may also ask to go off the
6 record if I can't hear you.

7 And if everyone again would please place
8 their audio on mute until they would like to speak.
9 That's all I have for now.

10 MR. JONES: And if I may, one more thing. 13:09:08
11 You reminded me, Ms. Meeks, in talking about 13:09:08
12 attorneys identifying themselves. We had one 13:09:11
13 attorney for Plaintiffs yesterday who made all the 13:09:14
14 objections. And I believe that Puneet Kohli has said 13:09:17
15 that he will make all the objections today, which if 13:09:21
16 that's the case I think if we stipulate that or if we 13:09:24
17 say that, then that will make this a little less 13:09:27
18 cumbersome since he won't need to identify himself on 13:09:27
19 each occasion. 13:09:27

20 THE REPORTER: I agree. Thank you. 13:09:27

21 MR. JONES: Great. 13:09:44

22 Well, the witness has been sworn. 13:09:44

23 Stipulations have been read into the record. And for 13:09:46
24 the record, I am southern so I speak very slowly 13:09:49
25 anyway. So I will do my best to complete my sentence 13:09:54

1 and, Dr. Ettner, I will do my best to let you finish
2 your answer before speaking again.

3 But please, if you do not understand my
4 question, ask me to repeat it and we'll try to get
5 through this as best we can. I appreciate everyone's
6 willingness to engage in this manner.

7 With that being said, we can start the
8 deposition.

9
10 * * *

11 RANDI C. ETTNER, PH.D.,
12 was called as a witness, and after having been first
13 duly sworn, testified as follows:

14
15 DIRECT EXAMINATION

16 QUESTIONS BY MR. JONES:

17 Q. Dr. Ettner, if you would give us your full
18 name?

19 A. Dr. Randi Ettner.

20 Q. And, Dr. Ettner, what is your occupation?

21 A. I'm a clinical and forensic psychologist.

22 Q. And your qualifications have actually been
23 well documented. We'll get to that in a minute.

24 Just for a matter of housekeeping, I had forwarded a
25 list of five exhibits this morning to plaintiffs'

1 counsel. Did you receive those exhibits and do you 13:11:07
2 have them accessible to you? 13:11:12

3 A. I have them. I believe I have everything 13:11:21
4 accessible. 13:11:25

5 Q. Great. And we'll get those five on the 13:11:26
6 record here in a minute, but I just wanted to start 13:11:30
7 with sort of a general question about your expertise 13:11:43
8 since your qualifications have been well documented. 13:11:43
9 What part of your education, training, and experience 13:11:47
10 are you relying upon to render an opinion in this 13:11:50
11 case? 13:11:56

12 A. I'm relying on my education in psychology, my 13:11:56
13 training in gender and gender conditions after 13:12:13
14 university, in my doctoral clinical work and in 13:12:20
15 supervision work and in my clinical experience which 13:12:26
16 began in the late 1970's. Also, I've relied on the 13:12:33
17 extensive literature in this area and the World 13:12:41
18 Professional Association for Transgender Healthcare 13:12:41
19 Organization and the Standards of Care that they 13:12:56
20 promulgate. 13:13:02

21 Q. Great. Thank you. 13:13:03

22 And what is the subject matter of your 13:13:04
23 opinion rendered in this case? 13:13:10

24 A. I've rendered several opinions in this case. 13:13:22

25 Q. Okay. Is that subject matter limited to the 13:13:25

1 diagnosis and treatment of individuals with gender 13:13:35
2 dysphoria? 13:13:41

3 A. No, it's not limited to that. 13:13:43

4 Q. Okay. And how is it not limited to that? If 13:13:45
5 you could, define the breadth of your opinions. 13:13:53

6 A. My opinions are also based on my 13:13:58
7 understanding of the etiology of gender incongruity 13:14:02
8 and my expertise in trauma and emotional distress 13:14:11
9 and, in general, my experience of having worked with 13:14:20
10 over 3,000 individuals with gender incongruity. 13:14:25

11 Q. And what documents have you reviewed 13:14:34
12 concerning the plaintiffs and the allegations in the 13:14:41
13 present case? 13:14:45

14 A. I've reviewed the complaints and the amended 13:14:53
15 complaint. I've not spoken or interviewed the 13:14:56
16 plaintiffs in this case. 13:15:01

17 Q. And this may be redundant for that answer. 13:15:02
18 But just to be sure, you're not expressing any 13:15:06
19 opinions about the impact of any actions or inactions 13:15:12
20 of the defendants on these particular plaintiffs? 13:15:16

21 A. Not on these -- 13:15:23

22 MR. KHOLI: Objection. Form. 13:15:25

23 THE WITNESS: -- particular plaintiffs -- 13:15:25

24 BY MR. JONES: 13:15:25

25 Q. Okay. 13:15:30

1 A. -- other than the conclusions I've drawn from 13:15:30
2 what I've read in the complaint. 13:15:32

3 Q. And with that, if we could go ahead and look 13:15:38
4 at the Amended Complaint which was sent over as 13:15:41
5 Exhibit 1. Let me know when you have that in front 13:15:47
6 of you. 13:15:47

7 MR. JONES: And, Puneet, I had forwarded 13:16:03
8 these exhibits premarked in the order that I sent 13:16:06
9 them. If you have no objection, I'll just refer to 13:16:10
10 them as Exhibits 1 through 5 as we go through. 13:16:14

11 MR. KOHLI: Sure. And make sure that Dr. 13:16:20
12 Ettner follows them. So I think the first thing you 13:16:23
13 were saying, Exhibit 1 just mentioned what it is and 13:16:25
14 then hopefully you won't have to repeat -- 13:16:29

15 MR. JONES: Absolutely. Absolutely. 13:16:34

16 BY MR. JONES: 13:16:38

17 Q. Dr. Ettner, do you have Exhibit 1 in front of 13:16:39
18 you? 13:16:42

19 A. Amended Complaint for Declaratory and 13:16:43
20 Injunctive Relief? 13:16:46

21 Q. Yes. 13:16:49

22 A. Yes, I have it in front -- 13:16:50

23 (WHEREUPON, the above-mentioned document 13:16:50
24 was premarked as Exhibit Number 1.) 13:16:50

25 BY MR. JONES: 13:16:50

1 Q. Great. 13:16:51

2 And I just wanted to clarify that you 13:16:52

3 understand this Amended Complaint. These plaintiffs 13:16:59

4 are not seeking any sort of damages that (inaudible) 13:17:05

5 are declaratory -- 13:17:05

6 (Audio outage.) 13:17:21

7 A. Well, not being a lawyer I'm not certain that 13:17:21

8 I entirely do understand that distinction.

9 Q. And based on --

10 THE REPORTER: I'm sorry. I'm --

11 BY MR. JONES:

12 Q. -- prior testimony --

13 THE REPORTER: Excuse me.

14 BY MR. JONES:

15 Q. -- and your experience, you have given 13:17:44

16 testimony in several cases in the past that have 13:17:46

17 involved injuries and -- personal injuries, and you 13:17:50

18 understand what that entails as far as damages, 13:17:51

19 correct? 13:17:55

20 A. Yes. 13:17:55

21 Q. And --

22 THE REPORTER: I'm sorry. I have to

23 interrupt.

24 BY MR. JONES:

25 Q. -- you understand that in --

1 THE REPORTER: Mr. Jones.

2 BY MR. JONES:

3 Q. -- this particular case these plaintiffs are 13:18:04
4 not seeking those kind of personal injury damages? 13:18:05

5 MR. KOHLI: Objection. Form. 13:18:10

6 THE WITNESS: I now know that because 13:18:12
7 you've said that. But I didn't previously really 13:18:14
8 take that into consideration since that wasn't the 13:18:19
9 scope of my opinions. 13:18:24

10 BY MR. JONES: 13:18:27

11 Q. And that's really what I was trying to get 13:18:27
12 at. You were not asked to evaluate these plaintiffs 13:18:29
13 from a perspective of damages that they may have 13:18:33
14 suffered individually? 13:18:41

15 A. Correct. 13:18:42

16 Q. Great. 13:18:43

17 MR. KOHLI: Objection. 13:18:46

18 Dr. Ettner, just give me a chance to 13:18:49
19 raise objection -- 13:18:49

20 MR. JONES: Yes. 13:18:49

21 MR. KOHLI: -- to put the objections on 13:18:50
22 the record. 13:18:52

23 So give me a few minutes -- few seconds 13:18:53
24 before you answer. 13:18:55

25 MR. JONES: Yes. 13:18:57

1 BY MR. JONES:

13:19:03

2 Q. And so since you -- Dr. Ettner, since you
3 have not evaluated or interviewed the plaintiffs,
4 your opinions are general in nature about the
5 experiences of transgender people. Is that correct?

13:19:03

13:19:06

13:19:12

13:19:16

6 MR. KOHLI: Objection. Form.

13:19:23

7 THE WITNESS: I've also read the
8 narratives that are written in this Amended
9 Complaint. And on that basis I agree that these
10 individuals did suffer some harm; although, I have
11 not spoken to them individually.

13:19:29

13:19:30

13:19:37

13:19:44

13:19:49

12 BY MR. JONES:

13:19:55

13 Q. And also you are not offering any opinions
14 about what actions or inaction the defendants -- what
15 actions the defendants should or should not do with
16 regard to birth certificates, recording or
17 maintaining those certificates in the state of
18 Tennessee?

13:19:55

13:19:59

13:20:06

13:20:13

13:20:16

13:20:20

19 MR. KOHLI: Objection. Form.

13:20:20

20 THE WITNESS: I'm sorry. I didn't
21 understand that question. Could you repeat it?

13:20:25

13:20:26

22 BY MR. JONES:

13:20:28

23 Q. Yes.

13:20:29

24 You are not offering any opinions about what
25 actions the defendants should or should not do with

13:20:29

13:20:33

1 regard to recording or maintaining birth certificates 13:20:38
2 in the state of Tennessee? 13:20:43

3 MR. KOHLI: Objection. Form. 13:20:46

4 THE WITNESS: I'm offering an opinion as 13:20:49
5 to the harms that transgender people incur when they 13:20:51
6 have inaccurate birth certificates. And I believe 13:20:57
7 that these plaintiffs do have inaccurate birth 13:21:01
8 certificates. 13:21:08

9 BY MR. JONES: 13:21:08

10 Q. Yes. And I understand that. 13:21:09

11 My question is: Are you offering any 13:21:12
12 opinions about what actions defendant -- the 13:21:17
13 defendants should take with regard to these 13:21:23
14 plaintiffs or any other birth certificates in the 13:21:27
15 future, specifically? 13:21:31

16 MR. KOHLI: Objection. Form. 13:21:35

17 THE WITNESS: My opinion is that 13:21:41
18 individuals who have transitioned as these 13:21:43
19 individuals have, require accurate documentation on 13:21:49
20 their birth certificates. 13:21:53

21 BY MR. JONES: 13:21:55

22 Q. Now, Dr. Ettner, we are going to go through a 13:21:58
23 little bit of housekeeping with some of the various 13:22:03
24 opinions that are out there because they're in 13:22:08
25 different documents. So we're just going to go 13:22:12

1 through the exhibits that I forwarded or your counsel 13:22:15
2 has forwarded to you earlier. Okay? 13:22:21

3 The second exhibit that was sent to you -- 13:22:26
4 and I will identify it -- is the Expert Report of Dr. 13:22:33
5 Randi C. Ettner, which is on a document that has the 13:22:47
6 style of this case. And let me go to the end of it 13:22:56
7 to get the date of it. Looks like it's dated the 9th 13:23:02
8 of January, 2020. Do you recognize that document as 13:23:06
9 your expert report? 13:23:10

10 A. Yes. 13:23:14

11 Q. All right. 13:23:15

12 (WHEREUPON, the above-mentioned document 13:23:15
13 was premarked as Exhibit Number 2.) 13:23:26

14 BY MR. JONES: 13:23:26

15 Q. And moving on to Exhibit 3, which is titled 13:23:26
16 the Expert Declaration of Dr. Randi C. Ettner, also 13:23:29
17 on a document with the style of this case, which, 13:23:38
18 going to the end, is dated the 29th of February, 13:23:42
19 2020. Do you recognize that document? 13:23:51

20 A. (Respite.) 13:24:12

21 Yes. 13:24:14

22 Q. And Dr. Ettner, this may be just a matter of 13:24:15
23 semantics because of the way legal proceedings are 13:24:20
24 done. Those are essentially the same reports 13:24:23
25 containing the same opinions. Is that correct? 13:24:26

1	MR. KOHLI: Objection. Form.	13:24:30
2	THE WITNESS: Sorry. Excuse me. There	13:24:33
3	was an objection.	13:24:36
4	BY MR. JONES:	13:24:38
5	Q. You can answer.	13:24:40
6	A. My opinions are the same.	13:24:40
7	(WHEREUPON, the above-mentioned document	13:24:40
8	was premarked as Exhibit Number 3.)	13:24:51
9	BY MR. JONES:	13:24:51
10	Q. And then moving on to Exhibit 4 that was sent	13:24:51
11	to you has a title of Expert Report of Dr. Randi C.	13:24:56
12	Ettner, PhD. It's on a document with the style of	13:25:01
13	the case in the Southern District of Ohio, with the	13:25:10
14	Plaintiff Stacie Ray, and this document, going to the	13:25:12
15	end, is dated July 1st, 2019.	13:25:20
16	Do you recognize that document as an expert	13:25:31
17	report that you prepared in that case?	13:25:35
18	A. Yes.	13:25:39
19	(WHEREUPON, the above-mentioned document	13:25:40
20	was premarked as Exhibit Number 4.)	13:25:42
21	BY MR. JONES:	13:25:42
22	Q. And with the exception of some updating --	13:25:43
23	I believe you had updated a couple of things	13:25:46
24	about where you've lectured, some other minor things.	13:25:50
25	-- does that document filed in the Ray case,	13:25:56

1 I will call it, contain essentially the same opinions 13:26:00
2 that are being rendered in the current case? 13:26:05

3 MR. KOHLI: Objection. Form. 13:26:11

4 THE WITNESS: I would like a moment to 13:26:16
5 review this document. 13:26:17

6 BY MR. JONES: 13:26:20

7 Q. Please. 13:26:20

8 A. (Reviews document.) 13:26:21

9 My opinions are the same in this document. 13:26:53

10 Q. Thank you. 13:26:59

11 And going to the last exhibit, which is 13:27:02
12 **Exhibit 5**, is a transcript of a deposition that I 13:27:08
13 believe where you testified -- and let me find the 13:27:20
14 date of it. Just a moment. Was a deposition -- 13:27:25
15 looks like the deposition took place on September 18, 13:27:54
16 2019, in Chicago, Illinois. 13:28:10

17 Do you recognize that transcript as the 13:28:14
18 transcript of your deposition taken that day? 13:28:17

19 A. Yes. 13:28:24

20 (WHEREUPON, the above-mentioned document 13:28:24
21 was premarked as **Exhibit Number 5**.) 13:28:24

22 BY MR. JONES: 13:28:25

23 Q. And, again, I know it's quite a long 13:28:25
24 deposition. But at the end of the deposition is 13:28:28
25 actually Page -- I'm trying to find it. Down to Page 13:28:34

1 236. And you can scroll to that if you need to. But 13:28:58
2 do you recall having an opportunity to read and sign 13:29:06
3 that deposition? 13:29:09

4 A. (Reviews document.) 13:29:54

5 Yes. 13:30:06

6 Q. And just a general question about that 13:30:08
7 deposition. I know you may not have had an 13:30:14
8 opportunity to completely review it again before 13:30:20
9 today. But as far as you recall, was your testimony 13:30:23
10 in that deposition truthful and consistent with your 13:30:29
11 opinions rendered in the expert report that was 13:30:35
12 prepared in that case? 13:30:38

13 A. I haven't reviewed the deposition but my 13:30:41
14 answers were truthful. 13:30:47

15 Q. Thank you. 13:30:48

16 And so, Dr. Ettner, having reviewed -- not 13:31:01
17 having reviewed these various documents and this 13:31:08
18 deposition, this prior deposition -- and again, I 13:31:12
19 think your qualifications were very well documented 13:31:16
20 in that deposition so I'm not going to go back 13:31:20
21 through them, and instead will focus today on your 13:31:23
22 opinions and your education and experience with 13:31:29
23 regard to those opinions. So I would like, if we 13:31:37
24 could, just start with some basic definitions of 13:31:41
25 terms that are being used throughout these documents 13:31:45

1 in your opinions. Okay? 13:31:52

2 A. Okay. 13:31:54

3 MR. KOHLI: I just want to add an 13:31:57

4 objection here. Insofar as any definitions that were 13:31:58

5 used in the Ohio transcript or expert report, those 13:32:03

6 are all subject to a standing objection in that 13:32:10

7 transcript. So to the extent any questions that go 13:32:12

8 back to terms used in those -- in that deposition and 13:32:15

9 the expert report, the same objection apply (sic) 13:32:19

10 over here as well. 13:32:26

11 MR. JONES: I understand. And I also 13:32:26

12 understand that there was a discussion yesterday 13:32:29

13 about the party not being bound by certain 13:32:34

14 definitions. And my focus today is just to get 13:32:39

15 Dr. Ettner's understanding of these terms. So with 13:32:45

16 that caveat, I'm just going to ask her for these -- 13:32:48

17 her understanding of these terms. But I understand 13:32:55

18 your objection, Puneet. 13:32:58

19 MR. KOHLI: Thank you. 13:33:03

20 BY MR. JONES: 13:33:03

21 Q. So, Dr. Ettner, if you could define for me 13:33:04

22 what is transgenderism? 13:33:08

23 A. Transgenderism refers to an individual who 13:33:15

24 experiences some incongruity between the sex they're 13:33:20

25 assigned at birth and their gender identity. 13:33:28

1 Q. And if you could, define the term "sex." And 13:33:41
2 by "sex," I am not looking for the active intercourse 13:33:47
3 itself but sex as a human characteristic. If you 13:33:55
4 could, define "sex" as a human characteristic. 13:33:59

5 A. Yes, I can. 13:34:04

6 Sex is a composite of chromosomal pairs, 13:34:06
7 gonads and internal reproductive organs, external 13:34:15
8 genitalia, sexually dimorphic brain structures, and 13:34:22
9 the result of gender identity. 13:34:31

10 Q. And if you could, define the term that I 13:34:36
11 believe you have used in these opinions, the term of 13:34:41
12 "true sex." 13:34:47

13 A. True sex -- 13:34:48

14 MR. KOHLI: Object to the standing 13:34:51
15 objections regarding those. 13:34:56

16 MR. JONES: I agree to your standing 13:34:59
17 objection, Puneet. It carries forward for all 13:35:02
18 definitions. I can see that. 13:35:07

19 BY MR. JONES: 13:35:14

20 Q. Please, Dr. Ettner. 13:35:15

21 A. "True sex," I have used to refer to a 13:35:17
22 person's affirmed gender identity. 13:35:27

23 Q. And that leads to the next definition of -- 13:35:38
24 well, let's back up for just one second. 13:35:42

25 With regard to sex and your definition of 13:35:47

1 sex, how many sexes are there? 13:35:50

2 MR. KOHLI: Objection. Form. 13:36:03

3 THE WITNESS: Well, typically, sex is 13:36:06

4 considered to be binary. Along the binary continuum 13:36:08

5 there are individuals who do not fall into those 13:36:25

6 categories. 13:36:28

7 BY MR. JONES: 13:36:29

8 Q. Is there an accepted number of sexes? 13:36:29

9 MR. KOHLI: Objection. Form. 13:36:39

10 THE WITNESS: I'm not understanding the 13:36:42

11 question the way it's phrased. 13:36:44

12 People typically talk about two 13:36:46

13 categories: Male and female. 13:36:54

14 BY MR. JONES: 13:36:56

15 Q. Okay. Then moving on. You've defined true 13:36:56

16 sex. And in that definition of true sex you've used 13:37:00

17 the word "gender identity." Can you define gender 13:37:05

18 identity? 13:37:11

19 A. Yes. 13:37:12

20 Gender identity is a well established concept 13:37:13

21 in medicine. It refers to an individual deep sense 13:37:17

22 of themselves as belonging to a category, typically 13:37:24

23 male or female. All humans develop an elemental 13:37:32

24 sense which is established early in life and is 13:37:40

25 immutable. 13:37:48

1 Q. And how many -- you say it's belonging to a 13:37:51
2 category. How many categories of gender identity are 13:37:59
3 there? 13:38:07

4 A. There are many ways that people can express 13:38:07
5 their gender identity. 13:38:09

6 Q. Is there -- has there been any effort by your 13:38:16
7 profession or the medical community or psychiatric 13:38:23
8 community to come up with a list of categories 13:38:38
9 regarding the gender identity? 13:38:41

10 MR. KOHLI: Objection. Form. 13:38:45

11 THE WITNESS: I can't speak to what other 13:38:49
12 organizations have included. The World of 13:38:50
13 Professional Association of Transgender Health, 13:38:57
14 WPATH, speaks of gender nonconforming, transgender, 13:39:05
15 and gender dysphoric individuals. 13:39:10

16 BY MR. JONES: 13:39:17

17 Q. And can you define for me what gender 13:39:17
18 nonconforming is? 13:39:23

19 A. Yes. 13:39:25

20 Gender nonconforming is a gender presentation 13:39:26
21 that falls outside of the stereotypically accepted 13:39:32
22 cultural expectation. So for instance, if a young 13:39:41
23 girl were to appear boyish, so to speak, what we 13:39:52
24 typically referred to as a tomboy in the past, that 13:39:59
25 would be an example of gender nonconformity. 13:40:03

1 Q. And you also -- so gender nonconforming, 13:40:11
2 transgender, and what was the third? 13:40:18
3 A. Gender dysphoric or what we used to call 13:40:20
4 transsexuals, a term that's no longer in use. 13:40:27
5 Q. And I did want to discuss that history of the 13:40:34
6 terminology a little later. But if we can, go ahead 13:40:37
7 and define what is gender dysphoria. 13:40:41
8 A. Gender dysphoria is a serious medical 13:40:51
9 condition that's diagnosed when an individual 13:40:56
10 experiences extreme distress due to the incongruity 13:41:02
11 between their birth-assigned sex and their gender 13:41:12
12 identity. And that distress is extreme and severe 13:41:18
13 enough to reach clinical significance and cause 13:41:23
14 impairment in some important area of functioning. 13:41:26
15 Fortunately, it's a treatable condition. 13:41:31
16 Q. And your expertise has focused mainly, has it 13:41:36
17 not, on gender dysphoria and the treatment of people 13:41:47
18 with gender dysphoria. Is that true? 13:41:53
19 MR. KOHLI: Objection. Form. 13:41:59
20 THE WITNESS: No. 13:42:02
21 BY MR. JONES: 13:42:02
22 Q. Why is that not true? 13:42:02
23 A. Because my expertise has focused on any and 13:42:03
24 every aspect of gender variance. 13:42:08
25 Q. And so, Dr. Ettner, in your experience, your 13:42:18

1 particular experience of having treated -- I believe 13:42:25
2 you testified to over 3,000 individuals. Is that 13:42:28
3 correct, over 3,000 individuals? 13:42:35

4 A. At this point, yes. 13:42:37

5 Q. In your experience of having treated over 13:42:39
6 3,000 individuals, have you experienced individuals 13:42:43
7 who call themselves, for example, agender? 13:42:54

8 MR. KOHLI: Objection. Form. 13:43:07

9 BY MR. JONES: 13:43:08

10 Q. Are you familiar with that term? 13:43:09

11 A. It's not a term that is commonly used, 13:43:13
12 although there are terms that are similar that are 13:43:18
13 used and that I have, indeed, seen in my clinical 13:43:24
14 practice. 13:43:31

15 Q. What similar terms? 13:43:31

16 A. Non-binary, genderqueer would be examples of 13:43:33
17 the -- what I believe is the example you're offering. 13:43:45

18 Q. And what -- those terms, what do they denote? 13:43:55

19 MR. KOHLI: Objection. Form. 13:44:03

20 THE WITNESS: Individuals who 13:44:09
21 characterize themselves in that manner don't 13:44:10
22 necessarily have a gender identity that they believe 13:44:17
23 is entirely male or entirely female. And they see 13:44:26
24 themselves as having a more nuanced or unique 13:44:38
25 identity which they oftentimes attempt to express. 13:44:45

1 BY MR. JONES: 13:44:51

2 Q. And that leads me to questions about the 13:44:52

3 history and evolution of this terminology. For 13:45:02

4 example, you just stated the term "transsexual" is no 13:45:10

5 longer used, correct? 13:45:15

6 A. I stated that, yes. 13:45:17

7 Q. And you've been working in this field for 13:45:18

8 over 40 years, correct? 13:45:22

9 A. I would have to count but it's been many 13:45:27

10 years. 13:45:31

11 Q. Many years. Many years. 13:45:31

12 And in those many years, not only the 13:45:33

13 terminology but the understanding, social 13:45:39

14 understanding and scientific understanding of 13:45:43

15 transgenderism has evolved; has it not? 13:45:53

16 A. Yes, indeed, it has evolved. 13:45:55

17 Q. And is it continuing to evolve? 13:46:00

18 MR. KOHLI: Objection. Form. 13:46:03

19 THE WITNESS: The scientific research is 13:46:07

20 multiplying, and I believe that the understanding by 13:46:17

21 lay people has amplified in recent years. 13:46:21

22 BY MR. JONES: 13:46:32

23 Q. And let's stick to the scientific for just 13:46:33

24 one moment. And I read the descriptions in your 13:46:36

25 prior deposition about the research being done with 13:46:45

1 magnetic resonance imaging, with other types of 13:46:50
2 empirical studies. But I believe you answered the 13:46:56
3 question in that deposition that there is no -- 13:47:04
4 currently there is no test, bureau test to determine 13:47:12
5 transgenderism. 13:47:22

6 MR. KOHLI: Objection. Form. 13:47:23

7 THE WITNESS: Is that a question? 13:47:24

8 BY MR. JONES: 13:47:26

9 Q. That's the question. Is there a test to 13:47:26
10 determine transgenderism? 13:47:29

11 A. There is no medical test such as a blood test 13:47:31
12 or a urinalysis or any other type of laboratory test 13:47:36
13 that can diagnose gender incongruity. 13:47:48

14 Q. And you may have answered this but I'll just 13:48:09
15 make sure that I have a complete understanding of 13:48:19
16 your perspective. 13:48:21

17 What is the state of the science now with 13:48:24
18 regard to identifying anatomical or physical 13:48:29
19 differences, brain scans, et cetera of identifying 13:48:41
20 transgenderism? 13:48:46

21 A. Would you repeat that question, please? 13:48:52

22 Q. Yes. It was kind of long. 13:48:54

23 But the specific question is: What is the 13:48:56
24 state of the science now with regard to those issues? 13:49:01

25 MR. KOHLI: Objection. Form. 13:49:06

1 THE WITNESS: The information that has 13:49:13
2 been confirmed by functional magnetic resonance 13:49:17
3 imagery is that there are basically four brain 13:49:23
4 phenotypes that can be seen with technology that we 13:49:32
5 now have that we didn't have previously. And this 13:49:37
6 technology has allowed us to view the brains of 13:49:45
7 living individuals. 13:49:51

8 So in 2000 in Amsterdam, autopsy brains 13:49:57
9 revealed differences in the brains of transgender 13:50:05
10 individuals and non-transgender individuals. 13:50:10
11 However, because of the limited amount of brains of 13:50:13
12 dead people and the inability to understand whether 13:50:20
13 the change was caused by the hormones or whether they 13:50:31
14 existed prior to hormones, that data was 13:50:35
15 inconclusive. 13:50:41

16 Conclusive data came with the advent of 13:50:41
17 functional magnetic resonance imaging is one element 13:50:47
18 of the state of science you're talking about. And 13:50:49
19 that is able to look at brains prior to the 13:50:54
20 administration of sex steroids and after the 13:51:00
21 administration of sex steroids and demonstrates that 13:51:06
22 there are four distinct brain phenotypes and that the 13:51:10
23 brains of transgender women prior to any hormonal 13:51:16
24 interventions resembled the brains of non-transgender 13:51:24
25 women in various areas, predominantly the northern 13:51:32

1 hemisphere of the brain in cortical segment and in 13:51:44
2 white matter microstructures to name just a few of 13:51:46
3 these dimorphic areas. 13:51:55

4 Additionally, there have been genetic 13:52:03
5 studies where individuals in Japan and in Australia 13:52:03
6 have found genetic links. And I am not a geneticist 13:52:09
7 so I cannot explain this other than to say that they 13:52:20
8 have been able to actually identify some genetic 13:52:25
9 underpinnings that force the neurodevelopmental 13:52:30
10 cortical basis of the etiology. 13:52:42

11 Now, there are other facts that I could 13:52:45
12 go into that have been looked at in infants that have 13:52:47
13 died prenatally, demonstrating some differences that 13:52:53
14 occur that can actually be seen in these unfortunate 13:53:00
15 fetuses. 13:53:00

16 BY MR. JONES: 13:53:10

17 Q. And so, Dr. Ettner, regardless of objective 13:53:10
18 findings that can be viewed through objective tests, 13:53:17
19 based on your definition of gender identity which 13:53:27
20 depends on a person's own affirmed identity, the 13:53:35
21 objective tests would still not determine what a 13:53:46
22 person's gender identity may or may not be. Would 13:53:52
23 you agree? 13:53:59

24 MR. KOHLI: Objection. Form. 13:54:01

25 THE WITNESS: I don't think I can agree 13:54:05

1 to the first part of that question so I would ask you 13:54:07
2 to please rephrase it or ask me that again, if you 13:54:11
3 will. 13:54:14

4 BY MR. JONES: 13:54:16

5 Q. Regardless of objective findings, a person's 13:54:18
6 gender identity is still subjective, is it not? 13:54:25

7 MR. KOHLI: Objection. Form. 13:54:31

8 THE WITNESS: An individual's gender 13:54:40
9 identity is something that that individual discloses. 13:54:43

10 BY MR. JONES: 13:54:53

11 Q. And if that individual is the only one who 13:54:54
12 can disclose it, it is by nature subjective, is it 13:54:58
13 not? 13:55:03

14 MR. KOHLI: Objection. Form. 13:55:06

15 THE WITNESS: As I said previously, it is 13:55:09
16 a deeply felt, internal ubiquitous to all human 13:55:12
17 beings and an immutable aspect of identity. 13:55:25

18 BY MR. JONES: 13:55:29

19 Q. And the definition of gender incongruity is 13:55:30
20 that that affirmed or self-affirmed identity does not 13:55:41
21 match a gender that is assigned at birth. Is that 13:55:46
22 correct? 13:55:54

23 A. Would you repeat the question? I didn't hear 13:55:54
24 the first. There was an audio leak there. 13:55:57

25 BY MR. JONES: 13:56:03

1	Q.	Yes.	13:56:04
2		That a person's gender incongruity simply	13:56:05
3		means that a person's self-affirmed gender identity	13:56:11
4		does not match the gender of the sex assigned at	13:56:17
5		birth?	13:56:23
6	A.	I agree that that would be a definition of	13:56:24
7		gender incongruity, some diversion in gender identity	13:56:29
8		and anatomy.	13:56:45
9	Q.	And I just want to, if I can, distinguish	13:56:48
10		between identifying that something is incongruous,	13:56:55
11		meaning it doesn't match; so gender incongruity, two	13:57:06
12		things don't match, versus defining what the gender	13:57:11
13		identity actually is. Those are two different	13:57:19
14		things, are they not?	13:57:23
15		MR. KOHLI: Objection. Form.	13:57:24
16		THE WITNESS: I don't understand the	13:57:28
17		question.	13:57:29
18		BY MR. JONES:	13:57:29
19	Q.	My question is: That by recognizing that	13:57:31
20		there is an incongruity, a gender incongruity, that	13:57:39
21		doesn't necessarily help a person define what their	13:57:48
22		gender identity is; is that correct?	13:57:53
23	A.	I don't know because I don't really	13:58:01
24		understand the question. What I would say is that	13:58:04
25		for the majority of people, the vast majority of	13:58:11

1 people, the sex they're assigned at birth is their 13:58:16
2 lived experience and it is in sync with their gender 13:58:25
3 identity, and they don't experience gender 13:58:34
4 incongruity or gender dysphoria. 13:58:39

5 There is, however, a group of people whose 13:58:43
6 sex assigned at birth is at odds with their sense of 13:58:47
7 their self and their gender identity and it causes 13:58:56
8 distress. And for some people the distress is severe 13:59:02
9 and those people require interventions. 13:59:11

10 Q. Okay. And so I'm just trying to establish 13:59:18
11 sort of the timeline of how that would happen in a 13:59:22
12 person's life. The very first step, would you agree, 13:59:28
13 is coming to the understanding that there is an 13:59:34
14 incongruity? 13:59:38

15 A. People become aware of gender at an early 13:59:44
16 age. However, when they understand the concept of 13:59:56
17 gender incongruity or the concept of the possibility 14:00:04
18 of gender transition varies from individual to 14:00:12
19 individual, often depends on their socioeconomic 14:00:18
20 situation. People from resource-poor environments 14:00:27
21 may not understand why they feel different, and they 14:00:34
22 may fight to avoid or deny those feelings. And at 14:00:38
23 some point they learn that there's a name for the 14:00:44
24 pain that they've experienced. But they may not be 14:00:49
25 able to name that or to understand that, and that 14:00:53

occurs at various points for different people.

Q. And at the point when that occurs, that's when, hopefully, as you discussed, an intervention can happen, a medical intervention?

A. Not necessarily. For some people that happens at a very young age. So we have seen, for example, 3-year-old girls who will stand to pee and they've never seen anyone do that. And yet, they may be aware that someone may see that and say, Girls don't do that. Girls use the toilet by sitting. Yet, even though the child is aware of that and that somehow they're different, we don't offer medical interventions to that child.

So people make decisions about how to live with gender incongruity when they become aware of it, and those conditions can change from decade to decade with some of those conditions, surgery being irrevocable.

Q. Okay. Dr. Ettner, we're going to move on to your opinion expressed in the current case. So I'm going to go through your expert report. We have been going for about an hour now. Does anyone need a break?

A. I do.

Q. Okay. 5 minutes, 10 minutes, anyone?

1 A. 5 minutes would be good for me. 14:03:20

2 Q. Okay. Great. 5 minutes everyone. 14:03:22

3 MR. KOHLI: 5 minutes. 14:03:49

4 (Short break.) 14:03:49

5 MR. JONES: So we're going to go back on 14:15:26

6 the record then. 14:15:29

7 BY MR. JONES: 14:15:31

8 Q. Dr. Ettner, can you hear me? 14:15:32

9 A. Yes. 14:15:35

10 MR. JONES: Just for the record the court 14:15:36

11 reporter has advised that there may have been an 14:15:38

12 issue with her connectivity, but she believes it was 14:15:40

13 during the point of the deposition that I was going 14:15:47

14 through and basically identifying the exhibits of Dr. 14:15:51

15 Ettner's prior testimony. 14:15:59

16 BY MR. JONES: 14:15:59

17 Q. And so, Dr. Ettner, I apologize for the 14:16:01

18 repetition but just in case, we can clean this up. I 14:16:06

19 had presented you with Exhibit 4 which was your 14:16:10

20 expert report from the Ray case in Ohio. And I 14:16:16

21 believe you testified you recognized that report and 14:16:20

22 it contains your opinions in that case. Is that 14:16:24

23 correct? 14:16:24

24 A. Yes. 14:16:32

25 Q. And I also presented you with the transcript 14:16:32

1 of your deposition from the Ray case. And I believe 14:16:37
2 you testified that your testimony in that deposition 14:16:42
3 was truthful and did contain your opinions. Is that 14:16:48
4 correct? 14:16:54

5 A. Yes. 14:16:54

6 MR. JONES: Well, hopefully that's all 14:16:57
7 that was, was a matter of housekeeping and that gets 14:16:59
8 cleared up. The court reporter will let us know if 14:17:04
9 there were any other gaps. We'll just address that 14:17:09
10 as best we can. 14:17:14

11 MR. KOHLI: Counsel, could you also 14:17:17
12 identify the exhibit numbers for the record for the 14:17:19
13 two documents you just identified? 14:17:25

14 MR. JONES: Yes. 14:17:26

15 The expert report from the Ray case was 14:17:28
16 Exhibit 4 and the deposition transcript was Exhibit 14:17:32
17 5. 14:17:35

18 Okay. Are we ready to move forward? 14:17:35
19 Puneet, are you ready? 14:18:00

20 MR. KOHLI: Just one second. 14:18:00

21 So with regard to objection to, I think, 14:18:02
22 the way you characterized the exhibits to me, I think 14:18:05
23 she pointed out -- Dr. Ettner pointed out that she 14:18:11
24 did not review the transcript but she recalled that 14:18:13
25 she answered those questions truthfully. 14:18:16

1	MR. JONES: Yes.	14:18:23
2	Okay. Are we ready?	14:18:24
3	MR. KOHLI: Yeah.	14:18:33
4	MR. JONES: Great.	14:18:34
5	BY MR. JONES:	14:18:36
6	Q. Dr. Ettner, I'm going to be referring now to	14:18:38
7	your expert report that was prepared in this case	14:18:41
8	which we have marked as Exhibit 2. If you can get	14:18:44
9	that in front of you.	14:18:49
10	Okay?	14:19:32
11	A. Yes.	14:19:35
12	Q. Okay. I'm actually at paragraph -- at the	14:19:36
13	summary of opinions at Paragraph 16 and 17. And I	14:19:47
14	just wanted to ask you about -- because you had	14:20:00
15	testified earlier that you had several opinions that	14:20:05
16	you were rendering in this case, and I wanted to be	14:20:08
17	sure that we capture all of them.	14:20:11
18	But Paragraph 17, it says, For a transgender	14:20:16
19	person, a birth certificate bearing an incorrect	14:20:25
20	gender marker invades privacy, releases confidential	14:20:30
21	medical information, and places the individual at	14:20:37
22	risk for grave psychological and physical harm.	14:20:41
23	Did I read that correctly?	14:20:46
24	A. Yes.	14:20:48
25	Q. And so previously when we were going through	14:20:48

1 definitions, I attempted to ask you for a definition 14:20:52
2 that I'm going to ask you for now. What is your 14:20:58
3 definition of an identity document? 14:21:04

4 A. An identity document to my mind would be the 14:21:09
5 government-issued document that identifies a person 14:21:23
6 and allows them to use that document in transactions 14:21:29
7 where such identification is required. 14:21:40

8 Q. And again, you have treated over 3,000 14:21:49
9 individuals. And of those 3,000 perhaps if you could 14:21:57
10 give me a ballpark percentage of how many of those 14:22:09
11 individuals actually started the process of social 14:22:13
12 transitioning? 14:22:20

13 MR. KOHLI: Objection. Form. 14:22:21

14 BY MR. JONES: 14:22:21

15 Q. You can answer, if you can. 14:22:32

16 A. Okay. Of course I can't give you a discrete 14:22:37
17 number. I can tell you that individuals may make 14:22:42
18 certain steps in social transition and that it may 14:22:57
19 occur over a period of time. I may see them at some 14:23:04
20 point during that process, but perhaps not through 14:23:12
21 their entire transition. But I would say if I had to 14:23:17
22 estimate, I would say about 50 percent have made some 14:23:25
23 attempts to modify their gender expression and bring 14:23:44
24 it more into alignment with their affirmed gender. 14:23:47

25 For instance, in a prison system where I have 14:23:56

1 seen many transgender people there are of course 14:24:01
2 contextual limitations that prevent people from 14:24:08
3 making a complete social transition. And so people 14:24:16
4 will do what's possible given the limitations of 14:24:20
5 obviously their situation. 14:24:27

6 Q. And in the process of social transitioning -- 14:24:32
7 and let's set aside the examples of transitioning 14:24:38
8 within a confined system like a prison system. Let's 14:24:45
9 talk about in society, other than prison. 14:24:48

10 In the process of social transitioning where 14:24:53
11 does the effort to change identity documents come 14:25:01
12 within that process? 14:25:08

13 MR. KOHLI: Objection. Form. 14:25:10

14 THE WITNESS: From my experience people 14:25:14
15 want to initiate document change when they want to 14:25:18
16 live in their affirmed gender and be recognized as 14:25:27
17 belonging to their affirmed gender so that their 14:25:34
18 documents reflect their appearance and their lived 14:25:39
19 experience. 14:25:47

20 BY MR. JONES: 14:25:48

21 Q. Is there -- in your experience with patients 14:25:49
22 who have started that process of changing identity 14:25:56
23 documents, is there or is there not a place to start? 14:26:00
24 For instance, a driver's license, a passport. What 14:26:08
25 is -- this is multiple questions. I'll put this in a 14:26:15

1 simple form. Where is the easiest place to start?

14:26:22

2 MR. KOHLI: Objection. Form.

14:26:25

3 THE WITNESS: Well, I think it depends on
4 the state where the person lives and the person's
5 intentions and the individual. So I don't have a
6 universal answer for that. I see people and have
7 seen people from all over the country.

14:26:27

14:26:30

14:26:36

14:26:46

14:26:50

8 BY MR. JONES:

14:26:57

9 Q. Have you had experience with patients who
10 because of their particular gender identity, changing
11 identity documents is just not an option? And the
12 example that I'm thinking of is one we discussed
13 earlier about someone who is non-binary.

14:26:59

14:27:10

14:27:17

14:27:24

14:27:27

14 MR. KOHLI: Objection. Form.

14:27:36

15 THE WITNESS: I have seen few non-binary
16 individuals. I have not had requests from those
17 individuals to change identity documents. And
18 there's very little research that I can point to or
19 scholarly articles that I can refer to. But that has
20 not been a very large segment. It's been a very
21 small segment of my -- in my experience.

14:27:39

14:27:47

14:27:52

14:27:57

14:28:04

14:28:11

14:28:20

22 BY MR. JONES:

14:28:27

23 Q. So your experience has been primarily with
24 the binary choice between male and female?

14:28:28

14:28:33

25 A. Yes.

14:28:38

1 Q. Okay. I'm moving on down to Paragraph 30 in 14:28:48
2 your report where you are discussing the diagnostic 14:28:57
3 criteria for gender dysphoria in adolescents and 14:29:06
4 adults. And this is where -- and I'm looking at 14:29:16
5 A(iv) within those criteria; and where Paragraph A 14:29:41
6 says, Diagnostic criteria are a marked incongruence 14:29:51
7 between one's experienced/expressed gender and 14:29:59
8 assigned gender, of at least six months' duration, as 14:30:03
9 manifested by at least two of the following. And 14:30:08
10 within that list is Subparagraph 4 where you wrote, A 14:30:16
11 strong desire to be of the other gender. And then in 14:30:23
12 a parenthetical wrote, Or some alternative gender 14:30:32
13 different from one's assigned gender. 14:30:35

14 And that was my question. What experience 14:30:41
15 you have (sic) had with that other category of some 14:30:46
16 alternative gender? 14:30:52

17 A. So although I agree with this, I'm not the 14:30:57
18 author of this. This is taken verbatim from the 14:31:01
19 Diagnostic and Statistical Manual. And it indicates 14:31:06
20 as we previously discussed that there are some 14:31:14
21 individuals who may identify as non-binary and those 14:31:18
22 individuals can experience gender dysphoria. And 14:31:26
23 those individuals may have a strong desire to present 14:31:31
24 in a unique fashion that they feel expresses their 14:31:43
25 gender identity. And that's why the DSM-5 has 14:31:51

1 included that language.

14:31:56

2 Q. And just to -- since you bring up the DSM-5,
3 I just wanted to go back for a second to the history
4 of the evolution of these carnes (ph). And the
5 previous DSM-4, I believe, still uses the term
6 "disorder"?

14:32:08

14:32:12

14:32:18

14:32:27

14:32:34

7 A. Gender identity disorder.

14:32:34

8 Q. Correct.

14:32:39

9 MR. KOHLI: Objection. Form.

14:32:39

10 BY MR. JONES:

14:32:39

11 Q. This is not a trick question. But if you
12 remember, when was that changed in the DSM-5 to
13 remove the word "disorder"?

14:32:43

14:32:46

14:32:53

14 A. The DSM-5 was published in 2013. The experts
15 who met would have made a determination prior to
16 publication. So as early as 2011. When the seventh
17 generation of the Standards of Care was being
18 produced, it was clear that the word "disorder" was
19 no longer acceptable and would be eliminated not only
20 from the DSM-5 but from the ICD as well, the
21 International Classification of Disorders.

14:32:55

14:33:06

14:33:09

14:33:20

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14:33:46

22 Q. And, Dr. Ettner, in your experience dealing
23 with individuals who get to the stage of first
24 identifying that there is incongruity, seeking
25 treatment, seeking help, starting social transition

14:33:51

14:33:59

14:34:04

14:34:11

1 and then getting to the point of seeking an amendment 14:34:19
2 of identity documents, that social transition and 14:34:24
3 seeking amendment of identity documents is part of a 14:34:31
4 medical intervention, is it not? 14:34:37

5 A. Social transition is considered a medical 14:34:50
6 intervention. But the components of social 14:34:58
7 transition themselves, I don't know that we would 14:35:03
8 regard -- as medical per se, we would regard those as 14:35:09
9 legal gender-affirming treatments. 14:35:15

10 Q. And I just want to refer back for a moment to 14:35:28
11 the amended complaint which is Exhibit 1. And give 14:35:35
12 me a second and I'll find precisely what I'm looking 14:35:43
13 for. 14:35:47

14 And while I'm looking for it maybe I'll just 14:36:37
15 ask the question. I believe somewhere in the amended 14:36:41
16 complaint it says that a -- something to the effect 14:36:45
17 of that a person's ability to amend their birth 14:36:52
18 certificate should not be predicated on a diagnosis 14:37:03
19 of gender dysphoria. Is that something that you 14:37:09
20 would agree with? 14:37:17

21 A. Yes. 14:37:19

22 MR. KOHLI: Objection. Form. Vague. 14:37:19
23 Speculative. 14:37:24

24 BY MR. JONES: 14:37:25

25 Q. And my question to you, Dr. Ettner, is since 14:37:26

1 your expert report discusses changing identity 14:37:35
2 documents in the context of medical treatment after a 14:37:41
3 diagnosis of gender dysphoria, in your opinion would 14:37:49
4 it be appropriate for a transgender individual to 14:38:00
5 seek an amendment of their identity documents without 14:38:05
6 the assistance of a medical professional? 14:38:10

7 MR. KOHLI: Objection. Form. 14:38:17

8 THE WITNESS: I think that is exactly a 14:38:20
9 compound question. I'm not sure that I can answer 14:38:32
10 the question the way you phrased it. 14:38:34

11 BY MR. JONES: 14:38:35

12 Q. Then, let me try to make it simpler. 14:38:35

13 A. Thank you. 14:38:40

14 Q. Would it be appropriate in your opinion for 14:38:41
15 an individual to seek an amendment of their birth 14:38:44
16 certificate to change the gender marker without the 14:38:50
17 input or guidance of a medical professional? 14:38:58

18 A. Yes. In many cases I have seen people who 14:39:03
19 have -- who were raised in their affirmed gender, 14:39:16
20 oftentimes in other countries, who come to this 14:39:20
21 country and no one is aware that they were actually 14:39:23
22 assigned to, for instance, a male gender. And these 14:39:29
23 people have lived their entire life in their affirmed 14:39:38
24 gender, something we used to call a primary 14:39:42
25 transsexual, back in the day when that language was 14:39:47

1 that. And those people never even attempted to live 14:39:55
2 in their assigned sex. And often they've got medical 14:39:58
3 treatments for who didn't get medical treatments, but 14:40:05
4 did require appropriate identification to carry out a 14:40:10
5 normal life in society or may want surgical 14:40:20
6 interventions but have never been diagnosed by a 14:40:26
7 medical provider or a mental health provider. 14:40:38

8 Q. Now, Dr. Ettner, you have discussed in your 14:41:26
9 report and in your prior testimony much of the 14:41:31
10 difficulty that transgender individuals suffer 14:41:35
11 throughout their lives, including bullying in school, 14:41:42
12 other issues that are related to their 14:41:57
13 transgenderism. My question to you is, getting to 14:42:02
14 the point of social transition and changing identity 14:42:16
15 documents, is that a way to alleviate suffering that 14:42:25
16 has already occurred or is that something in and of 14:42:35
17 itself which causes suffering? 14:42:41

18 MR. KOHLI: Objection. Form. 14:42:46

19 BY MR. JONES: 14:42:54

20 Q. Do you understand? Maybe I should rephrase. 14:42:55

21 A. Please. 14:42:58

22 Q. Would you agree with me that in your opinion 14:42:58
23 transgender individuals -- and I'm looking 14:43:02
24 specifically at Paragraph 32. Actually Paragraph 31. 14:43:09
25 Without treatment, individuals with gender dysphoria 14:43:27

1 experience anxiety, depression, suicidality, and 14:43:33
2 other attendant mental health issues and are often 14:43:38
3 unable to adequately function in occupational, 14:43:43
4 social, or other areas of life. 14:43:48

5 Did I read that correctly? 14:43:50

6 A. Yes. 14:43:53

7 Q. And why is that, in your experience? 14:43:53

8 A. Why did they experience distress? 14:44:00

9 Q. Yes. 14:44:06

10 A. Experience distress because they violate 14:44:07
11 social norms and are subject to humiliation, 14:44:16
12 stigmatization, discrimination, harassment, violence. 14:44:25
13 These individuals have a 43 percent suicide attempt, 14:44:30
14 ten times higher than the national average. And in 14:44:37
15 the case of severely gender dysphoric individuals we 14:44:42
16 can see a natural progression of the medical 14:44:48
17 condition. When we look at what happens to 14:44:53
18 individuals who are incarcerated and do not receive 14:44:56
19 treatment, one of three trajectory evolves. Either 14:45:03
20 the individual has complete psychological 14:45:08
21 decompensation or they attempt surgical self 14:45:15
22 treatment, the removal of their own testicles, or 14:45:23
23 they attempt suicide. 14:45:26

24 Q. And so that is the condition or the 14:45:34
25 experience of transgender individuals independent of 14:45:42

1 what their identity documents say?

14:45:49

2 A. Studies from 2015 and 2020 indicate that
3 having congruent gender identity documents reduces
4 psychopathy and suicidal ideation, planning,
5 significantly. And the 2020 study was, I understand,
6 22,000 individuals, leading the logics to conclude
7 that legal gender affirmation is a determinant of
8 mental health.

14:45:55

14:46:06

14:46:16

14:46:19

14:46:31

14:46:34

14:46:39

9 Q. And the point is that, yes, these individuals
10 have this condition which causes them these issues
11 and that having affirming documents may alleviate
12 those issues but it didn't cause those issues. Is
13 that correct?

14:46:43

14:46:53

14:47:01

14:47:09

14:47:16

14 A. Revealing incongruent documents does cause
15 those issues. For example, in my own practice I had
16 a patient who had to reveal to a civil servant a
17 document that was not corrected and she was
18 humiliated publicly, harassed, and went home and shot
19 herself in the head; committed suicide. So exposure,
20 violation of privacy, the revelation of information
21 that an individual wants to keep secret if it is
22 noncongruent leads to fear, anxiety, or worse. And
23 that anxiety over time is corrosive to physical and
24 mental health.

14:47:16

14:47:26

14:47:30

14:47:38

14:47:44

14:47:51

14:48:04

14:48:08

14:48:16

14:48:22

14:48:29

25 Q. Do you recall what that identity document

14:48:40

1 was?

14:48:46

2 A. I don't recall but I believe it was a birth
3 certificate. She had left the state and was moving
4 to a new state and had to produce identity documents.
5 And that's when her, what should have been a mundane
6 transaction actually became a traumatic one with a
7 lethal outcome.

14:48:48

14:48:53

14:48:56

14:49:06

14:49:21

14:49:44

8 Q. And, Dr. Ettner, I want to step back for a
9 moment to the actual preparation of the birth
10 certificate. And I may refer back to your testimony
11 from prior deposition. But is it fair to say that it
12 is not your opinion that there is per se anything
13 wrong with assigning a sex at birth on a birth
14 certificate?

14:49:44

14:49:49

14:50:07

14:50:13

14:50:28

14:50:34

14:50:52

15 A. I'm sorry. Can you repeat? I didn't
16 understand --

14:50:52

14:50:56

17 Q. Yes.

14:50:56

18 A. -- the reference to prior deposition.

14:50:57

19 Did you want me to refer to a prior
20 deposition?

14:51:00

14:51:03

21 Q. No. I may refer back to it. I apologize.
22 That was a little confusing.

14:51:03

14:51:07

23 Let's ask it this way. Assigning birth --
24 assigning sex at birth is a medical diagnosis or a
25 medical decision, is it not?

14:51:10

14:51:18

14:51:29

1 A. Not necessarily. 14:51:32

2 Q. Then what is it? 14:51:34

3 A. It's a recording that an individual makes. 14:51:37

4 It could be a doula if someone has delivered at home 14:51:45

5 for instance. It's not always made by a physician. 14:51:50

6 Q. And by -- whoever records it, if it be a 14:52:08

7 doula or a physician, I believe you have testified 14:52:16

8 that the normal process for assigning sex at birth is 14:52:23

9 an examination of external genitalia. Is that 14:52:29

10 correct? 14:52:36

11 MR. KOHLI: Sorry. Objection. Form. 14:52:36

12 THE WITNESS: Would you repeat the 14:52:41

13 question? I'm sorry. 14:52:42

14 BY MR. JONES: 14:52:45

15 Q. Yes. The -- 14:52:45

16 A. I'm having a little auditory -- I'm sorry. 14:52:45

17 I'm having a little auditory -- it's hard for me to 14:52:47

18 hear the objections. So I beg your pardon. But 14:52:50

19 could you repeat the question, please? 14:52:57

20 Q. Yes. 14:53:00

21 Whoever makes the -- well, let me ask it this 14:53:04

22 way. The normal process for assigning sex at birth 14:53:10

23 is an examination of external genitalia, correct? 14:53:23

24 A. Yes. 14:53:30

25 Q. And it is not your opinion that there is 14:53:31

1 anything necessarily wrong with that process?

14:53:38

2 MR. KOHLI: Objection. Form.

14:53:41

3 THE WITNESS: I'm having some trouble
4 with the word "wrong." I think that that is the
5 process that takes place. I agree that that is
6 standard procedure to record the sex at the time of
7 birth based on the appearance of the genitals.

14:53:48

14:53:53

14:53:57

14:54:03

14:54:09

8 BY MR. JONES:

14:54:26

9 Q. Bear with me for a moment.

14:54:26

10 A. Sure.

14:54:33

11 Q. (Reviews documents.) Okay.

14:55:50

12 I apologize. I'm usually much more
13 comfortable dealing with paper.

14:56:06

14:56:09

14 The question -- and I'm looking at Page 128
15 of your prior deposition. And feel free to follow
16 along there?

14:56:23

14:56:29

14:56:42

17 MR. KOHLI: That's Exhibit 5, yeah?

14:56:46

18 MR. JONES: Exhibit 5, yes. I apologize.

14:56:49

19 MR. KOHLI: And could you give the page
20 number again, please?

14:56:54

14:56:56

21 MR. JONES: Yes. I'm actually at Page
22 127 and the question is when a person is born --

14:56:58

14:57:00

23 THE WITNESS: Would you give me a moment?
24 I'm not quite there.

14:57:15

14:57:16

25 BY MR. JONES:

14:57:19

1 Q. Absolutely. 14:57:19
2 A. And I'm on Page 127. 14:57:42
3 Q. At the very bottom, Question: When a person 14:57:44
4 is born do you have a general understanding of how 14:57:48
5 the sex of that individual is determined? 14:57:50
6 And your answer is: Yes. 14:57:54
7 Question: What is that understanding? 14:57:57
8 And your answer is: A cursory examination of 14:58:01
9 the external genitalia. 14:58:07
10 And the question: When you say "cursory," do 14:58:13
11 you think there should be a more extensive review of 14:58:16
12 a person's genitalia before a medical provider 14:58:20
13 determines male or female? 14:58:23
14 There was an objection and you answered. 14:58:25
15 And the question that I had I believe was 14:58:31
16 posed here at the bottom of Page 128. Do you have an 14:58:41
17 expert opinion on whether or not it would be 14:58:45
18 appropriate for a medical provider to do a more 14:58:48
19 extensive examination of the anatomy of the newborn 14:58:52
20 to determine male or female? 14:58:58
21 And your answer is: Not at the time of 14:59:00
22 birth. 14:59:07
23 Is that still your answer today? 14:59:07
24 A. Yes. 14:59:10
25 MR. KOHLI: Objection. For the record, 14:59:10

1 this is all subject to the standing objection and the 14:59:13
2 specific objections noted in the prior transcript, 14:59:17
3 which is now an exhibit here. 14:59:20

4 MR. JONES: Yes. 14:59:23

5 BY MR. JONES: 14:59:29

6 Q. And the next question: Because you used the 14:59:30
7 word "cursory" I was wondering if you had any idea as 14:59:34
8 to whether or not they need to do more? 14:59:38

9 Your answer: No. There's nothing more that 14:59:40
10 can be done other than to glance at it unless there's 14:59:45
11 some ambiguity about it at birth, and then there 14:59:49
12 would be a more extensive visual examination done 14:59:51
13 with later followup attention. 14:59:54

14 Is that still your answer today? 14:59:58

15 MR. KOHLI: Same objection. 14:59:58

16 BY MR. JONES: 15:00:06

17 Q. You can answer. 15:00:07

18 Is that still your answer today? 15:00:10

19 A. Yes, in the (inaudible) preceding questions 15:00:11
20 and the ones that follow. 15:00:40

21 THE REPORTER: Can you repeat that
22 answer? There was a word or two that cut out.

23 MR. JONES: Yes. The answer from the
24 deposition was: No --

25 THE REPORTER: No. The answer from the

1 doctor.

2 MR. JONES: Oh. Her answer?

3 THE REPORTER: Yes, sir.

4 THE WITNESS: My answer is yes, in the 15:00:40
5 context of the preceding questions and those that 15:00:42
6 follow. 15:00:47

7 BY MR. JONES: 15:00:50

8 Q. And so the next question in the deposition 15:00:51
9 was: So even though you describe what generally 15:00:56
10 happens at birth as cursory, you nevertheless admit, 15:01:00
11 I mean, that's appropriate as well, at the time of 15:01:08
12 birth, right? 15:01:13

13 And your answer was: Correct. 15:01:15

14 Is that the same answer today? 15:01:18

15 MR. KOHLI: Same objection as before. 15:01:23

16 THE WITNESS: My answer today is that 15:01:29
17 examination of the genitals at birth is a proxy for 15:01:34
18 sex for the majority of people. For some people, 15:01:45
19 however, evidence that emerges later on makes that 15:01:49
20 designation inaccurate. 15:02:00

21 BY MR. JONES: 15:02:07

22 Q. And that is in your opinion based on 15:02:07
23 information which becomes available later? 15:02:10

24 A. Correct. 15:02:16

25 Q. And what information might that be? 15:02:17

1 A. That an individual's gender identity does not 15:02:22
2 match that designation that was recorded at the time 15:02:28
3 of birth. And when there is that departure, gender 15:02:33
4 identity is the determinant of that individual's sex. 15:02:41

5 Q. And so you would agree that the concept of 15:02:46
6 sex at birth is different from a person's gender 15:02:51
7 identity? 15:02:59

8 MR. KOHLI: Objection. Form. 15:03:00

9 THE WITNESS: Not for everybody. 15:03:03

10 BY MR. JONES: 15:03:05

11 Q. Well, it may form differently for everyone. 15:03:06
12 But the concept is -- whether it's congruous or 15:03:08
13 incongruous, the sex at birth, which is determined by 15:03:18
14 examination of external genitalia, is a concept 15:03:22
15 different than gender identity which may form later? 15:03:29

16 MR. KOHLI: Objection. Form. 15:03:40

17 THE WITNESS: I don't agree that gender 15:03:41
18 identity is formed later. Gender identity exists. 15:03:43
19 Our awareness of it becomes apparent later. A baby 15:03:51
20 cannot talk, and so we use external genitalia as a 15:03:57
21 proxy for sex. For the vast majority of individuals 15:04:06
22 that is not problematic. For individuals who have 15:04:10
23 this rare condition, it is an inaccurate designation. 15:04:17

24 BY MR. JONES: 15:04:32

25 Q. Well, the sex at birth is not an inaccurate 15:04:32

1 designation but it's an inaccurate designation of 15:04:37
2 gender identity. Is that your opinion? 15:04:45

3 THE WITNESS: No. 15:04:50

4 MR. KOHLI: Objection. Form. 15:04:51

5 BY MR. JONES: 15:04:52

6 Q. Okay. Please explain. 15:04:53

7 A. External genitalia are one composite of sex. 15:04:55

8 Basing sex on that one element is accurate and 15:05:05

9 serviceable for the majority of human beings. For 15:05:14

10 some individuals, however, it is inaccurate because 15:05:19

11 when there is a discrepancy, gender identity is the 15:05:27

12 determinant of sex. So that designation requires 15:05:36

13 alteration based on evidence that emerges after 15:05:43

14 birth. And that timeframe differs, as we've 15:05:52

15 discussed, from individual to individual. 15:05:55

16 Q. Now, we have talked about different 15:05:59

17 definitions of sex, true sex, and gender identity. 15:06:04

18 So my question to you is, in your opinion should sex 15:06:15

19 be recorded on a birth certificate? 15:06:28

20 A. My opinions here that observation of external 15:06:32

21 genitalia and the recording of that on the birth 15:06:41

22 certificate is acceptable if there is an 15:06:51

23 understanding that at a future date that may have to 15:06:58

24 be altered if new evidence comes to light in the case 15:07:04

25 of transgender individuals or individuals who have 15:07:08

disorders of sexual differentiation.

Q. And so should a person's true sex be listed on a birth certificate, in your opinion?

A. If they request that, yes.

Q. And in your opinion should a person's gender identity be listed on a birth certificate?

A. I'm not certain if you're asking me at the time of birth or when a birth certificate is altered because a person has transitioned or has affirmed identity that is other than the sex they were assigned at birth and that is recorded. So I'm not clear which you're asking about.

Q. I'm actually asking if in your opinion gender identity should ever be listed on a birth certificate?

A. If the gender identity differs from the sex designation on the birth certificate, for instance, if the birth certificate has recorded an infant as male and that individual has a female gender identity, my opinion is that the gender certificate should be altered to have a female gender marker designation as is done in many states, if not most, throughout the country.

Q. And I'm not trying to be elusive here. And my question is not whether -- my question is very

1 simply should there be a box on a birth certificate 15:09:50
2 that records gender identity at all, in your opinion? 15:09:55

3 MR. KOHLI: Objection. Form. 15:10:00

4 Counsel, you're asking questions outside 15:10:02
5 the scope of the testimony in the declaration. 15:10:04

6 MR. JONES: And that's just what I'm 15:10:10
7 trying to understand, what the scope of her opinions 15:10:11
8 will be. And if she has no opinion on that, that is 15:10:15
9 fine. 15:10:18

10 MR. KOHLI: All right. 15:10:18

11 MR. JONES: I mean, I'm asking if she has 15:10:20
12 an opinion based on her education, experience, and 15:10:22
13 training of whether or not gender identity should be 15:10:28
14 listed at all on a birth certificate. 15:10:34

15 THE WITNESS: When a birth certificate is 15:10:41
16 altered to conform to gender identity, gender 15:10:43
17 identity is sex. And so there would be no reason to 15:10:48
18 list gender identity as a separate marker. The 15:10:53
19 person is living in the sex that you refer to as true 15:11:00
20 sex, their lived experience, and their corrected 15:11:12
21 birth certificate now reflects that, legitimizing 15:11:18
22 legally and socially their identity. 15:11:22

23 BY MR. JONES: 15:11:29

24 Q. And again, I'm -- I think I'm asking a 15:11:30
25 different question, Dr. Ettner. 15:11:35

1 And maybe we can unpack it this way. Is sex, 15:11:39
2 true sex, and gender identity a part of who a human 15:11:49
3 being is? 15:11:59
4 MR. KOHLI: Objection. Form. 15:12:00
5 THE WITNESS: Every human being has a 15:12:03
6 gender identity. 15:12:05
7 BY MR. JONES: 15:12:08
8 Q. Is it something that in your opinion should 15:12:08
9 be recorded on identity documents? 15:12:13
10 A. It would be redundant to list that on an 15:12:24
11 identity document that has been accurately altered to 15:12:30
12 reflect the sex of the individual. 15:12:35
13 Q. It is now 3:12 by my count. If we can take a 15:12:50
14 10-minute break, I'll give you the worst lie that 15:12:59
15 attorneys ever say, which is I only have a few more 15:13:05
16 questions. But if you can return in 10 minutes I 15:13:10
17 think we'll be close to wrapping this up. Okay? 15:13:15
18 A. Thank you. 15:13:22
19 MR. JONES: Okay. Off the record for 15:13:22
20 10 minutes. Thank you. 15:13:24
21 MR. KOHLI: Thank you. 15:13:25
22 (Short break.) 15:13:26
23 MR. JONES: Well, I told you that I was 15:25:51
24 going to lie to you by saying I only had a few more 15:25:53
25 questions, and I did lie because actually I have no 15:25:59

1 more questions. So thank you very much for 15:26:04
2 participating today, and everyone for participating 15:26:09
3 under these unusual circumstances. And I will pass 15:26:13
4 the witness if, Puneet, you have any questions. 15:26:18

5 MR. KOHLI: I do. Thank you. Just one 15:26:23
6 minute. 15:26:27

7 THE WITNESS: Could you speak up, Puneet? 15:26:27
8 I'm sorry. I'm having a hard time hearing you. 15:26:28

9 MR. KOHLI: Can you hear me now? 15:26:34

10 THE WITNESS: Now I can, yes. 15:26:37
11 15:26:46

12 CROSS-EXAMINATION 15:26:46

13 QUESTIONS BY MR. KOHLI: 15:26:46

14 Q. Dr. Ettner, do you remember being asked that 15:26:48
15 having incongruent gender identity documents can 15:26:52
16 cause harm? 15:27:00

17 A. Do I remember being asked that today? 15:27:06

18 Q. Yeah. 15:27:10

19 A. I don't know if I was asked it in exactly 15:27:11
20 that phrasing. 15:27:15

21 Q. Okay. But let me ask you this. Does having 15:27:19
22 incongruent gender ID documents, without ever having 15:27:26
23 to reveal them, by itself cause any harm for 15:27:34
24 transgender individuals? 15:27:45

25 A. Yes. Yes, indeed. And there have been 15:27:47

1 studies that document that. And we know that the 15:27:52
2 fear of exposing that can actually increase an 15:27:55
3 individual's acquiring hypertension due to the 15:28:01
4 intersectionality of cardiac reactivity and stress. 15:28:16

5 Q. Do you also recall Counsel indicated that you 15:28:25
6 have experience with individuals who choose to be 15:28:29
7 either male or female? 15:28:41

8 A. Did you say "neither" or "either"? 15:28:42

9 Q. Either male or female. 15:28:44

10 So do you recall that there was some 15:28:45
11 discussion about your experience and in particular 15:28:48
12 that Counsel mentioned or characterized that you have 15:28:50
13 experience with individuals who choose to be either 15:28:53
14 male or female? 15:28:56

15 A. Yes. But I believe that is a choice. 15:29:00

16 Q. You already answered my question. 15:29:05

17 But just for the record, do you think gender 15:29:06
18 identity is a choice? 15:29:10

19 A. No. Gender identity, as I thought I answered 15:29:12
20 earlier, is an innate brain-based, deeply felt, and 15:29:20
21 universal aspect of identity. 15:29:31

22 Q. Thank you. 15:29:38

23 MR. JONES: And I'm sorry. I actually 15:29:39
24 had an objection to that question but it was on mute. 15:29:42
25 So I apologize for the delay but she answered anyway. 15:29:46

1 Just to record the objection.

15:29:51

2 MR. KOHLI: Dr. Ettner, give me just one
3 minute. Just one minute, please.

15:29:58

15:30:01

4 Okay. I think that I don't have anymore
5 questions. Thank you so much.

15:30:16

15:30:19

6 MR. JONES: No redirect. So we are done.
7 Thank you very much everyone.

15:30:21

15:30:24

8 MR. KOHLI: Just for the record.

15:30:26

9 MR. JONES: Yes.

15:30:28

10 MR. KOHLI: Do we -- just one last
11 question. Can we -- or I think I want Omar to kind
12 of answer this. Do we want anything to be marked
13 confidential?

15:30:29

15:30:31

15:30:38

15:30:45

14 MR. GONZALEZ-PAGAN: I don't think there
15 was anything to be marked for confidential from this
16 deposition.

15:30:46

15:30:46

15:30:49

17 MR. KOHLI: Okay. I think that's it. We
18 would like to review and sign the transcript.

15:30:53

15:30:54

19 MR. JONES: Yes.

15:31:01

20 MR. KOHLI: Okay.

15:31:01

21 MR. JONES: And we will be in discussion.
22 I guess the court reporter can e-mail us tonight or
23 as soon as possible when she determines if there was
24 a gap in the testimony. And if somehow we need to
25 address that -- I'm not sure that we do, but if we

15:31:03

15:31:09

15:31:13

15:31:16

15:31:24

1 do, we'll just have that discussion when she responds 15:31:26
2 to us. 15:31:30

3 MR. KOHLI: Okay. That sounds good. And 15:31:31
4 this would be standard. Would you be able to send us 15:31:35
5 a rough draft today or tomorrow? 15:31:48

6 THE REPORTER: Yes. 15:31:48

7 MR. KOHLI: Thank you. 15:31:48

8 MR. JONES: Okay. Thank you everyone. 15:31:55

9 THE REPORTER: Mr. Jones, would you like 15:31:55
10 to order the original? 15:31:56

11 MR. JONES: I'll e-mail you about that. 15:32:00

12 THE REPORTER: Okay. Thank you.

13 (WHEREUPON, this concludes the
14 deposition.)

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E R R A T A P A G E

I, RANDI C. ETTNER, PhD, having read the foregoing videoconference deposition, Pages 1 through 63, do hereby certify said testimony is a true and accurate transcript, with the following changes (if any):

PAGE	LINE	SHOULD HAVE BEEN
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RANDI C. ETTNER, PhD

Notary Public

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4 COUNTY OF DAVIDSON

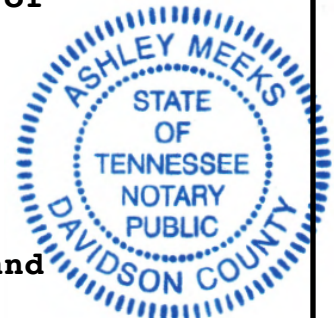
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PAGE	LINE	SHOULD HAVE BEEN
23	9	"result of" should be "resultant"
30	25	"northern" should be "right"
31	1	"segment" should be "thickness"
31	9	"force" should be "reinforce"
32	16	insert "sense" before "ubiquitous"
33	7	"diversion" should be "divergence"
46	3	"for" should be "or"
48	6	"logics" should be "authors"
57	9	insert "an" before "affirmed"
57	20	"gender" should be "birth"
61	15	insert "don't" before "believe"

RANDI C. ETTNER, PhD

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

KAYLA GORE, JAIME COMBS, L.G., and
K.N.,

Plaintiffs,

v.

WILLIAM BYRON LEE, in his official
capacity as Governor of the State of
Tennessee and LISA PIERCEY, in her
official capacity as Commissioner of the
Tennessee Department of Health,

Defendants.

Case No. 3:19-cv-00328

Judge Eli J. Richardson
Magistrate Judge Barbara Holmes

ERRATA DECLARATION

I, Dr. Randi C. Ettner, Ph.D., having read the foregoing transcript of my deposition taken on April 14, 2020, pages 1 through 63, do hereby certify under penalty of perjury under the laws of the United States of America that said deposition testimony is a true and accurate transcript, with the changes detailed on the attached errata page.

Executed on this 12 day of May 2020.

Dr. Randi C. Ettner Ph.D.

Dr. Randi C. Ettner, Ph.D.

<hr/> Exhibits <hr/>	2020 18:8,19 48:2,5	acceptable 43:19 56:22	alleviate 46:15 48:11
Ex 01 - Randi C. Ettner, PhD 4:13 13:5,13,17,24 44:11	22,000 48:6	accepted 24:8 25:21	allowed 30:6
Ex 02 - Randi C. Ettner, PhD 4:15 18:13 38:8	236 21:1	accessible 11:2,4	alteration 56:13
Ex 03 - Randi C. Ettner, PhD 4:17 18:15 19:8	29th 18:18	accurate 17:19 56:8	altered 56:24 57:8,21 58:16 59:11
Ex 04 - Randi C. Ettner, PhD 4:19 19:10,20 36:19 37:16	<hr/> 3 <hr/>	accurately 59:11	alternative 42:12,16
Ex 05 - Randi C. Ettner, PhD 4:21 20:12,21 37:16,17 51:17,18	3 18:15 19:8	acquiring 61:3	ambiguity 53:11
<hr/> 1 <hr/>	3,000 12:10 27:2,3,6 39:8,9	actions 12:19 16:14,15,25 17:12	amend 44:17
1 13:5,10,13,17,24 44:11	3-year-old 35:7	active 23:2	amended 12:14 13:4,19 14:3 16:8 44:11,15
10 35:25 59:16,20	30 42:1	actual 49:9	amendment 44:1,3 45:5,15
10-minute 59:14	31 46:24	add 22:3	amount 30:11
127 51:22 52:2	32 46:24	Additionally 31:4	amplified 28:21
128 51:14 52:16	3:12 59:13	address 37:9 62:25	Amsterdam 30:8
16 38:13	<hr/> 4 <hr/>	adequately 47:3	anatomical 29:18
17 38:13,18	4 19:10,20 36:19 37:16 42:10	admit 54:10	anatomy 33:8 52:19
18 20:15	40 28:8	adolescents 42:3	announce 6:5
1970's 11:16	43 47:13	adults 42:4	announcement 8:1
1st 19:15	<hr/> 5 <hr/>	advent 30:16	answers 21:14
<hr/> 2 <hr/>	5 13:10 20:12,21 35:25 36:1,2,3 37:17 51:17,18	advised 36:11	anxiety 47:1 48:22,23
2 18:13 38:8	50 39:22	affirmed 23:22 31:20 32:20 39:24 40:16,17 45:19,23 57:9	anymore 62:4
2000 30:8	<hr/> 9 <hr/>	affirming 48:11	apologize 36:17 49:21 51:12,18 61:25
2011 43:16	9th 18:7	age 34:16 35:6	apparent 55:19
2013 43:14	<hr/> A <hr/>	ager 27:7	appearance 40:18 51:7
2015 48:2	A(iv) 42:5 ability 44:17 above-mentioned 13:23 18:12 19:7,19 20:20 Absolutely 13:15 52:1	agree 9:20 16:9 23:16 31:23,25 33:6 34:12 42:17 44:20 46:22 51:5 55:5,17	apply 22:9
2019 19:15 20:16		ahead 7:4,8 13:3 26:6	area 11:17 26:14
		alignment 39:24	areas 30:25 31:3 47:4
		allegations 12:12	articles 41:19
			aspect 26:24 32:17 61:21

assigned 22:25
32:21 33:4 34:1,6
42:8,13 45:22
46:2 57:11

assigning 49:13,
23,24 50:8,22

assistance 45:6

Association
11:18 25:13

attempt 27:25
47:13,21,23

attempted 39:1
46:1

attempts 39:23

attendant 47:2

attention 53:13

attorney 8:19
9:13

attorneys 9:12
59:15

audio 7:5 9:3,8
14:6 32:24

auditory 50:16,17

Australia 31:5

author 42:18

autopsy 30:8

average 47:14

avoid 34:22

aware 34:15 35:9,
11,15 45:21

awareness 55:19

B

baby 55:19

back 21:20 22:8
23:24 36:5 43:3
44:10 45:25 49:8,
10,21

ballpark 39:10

based 12:6 14:9
31:19 51:7 54:22
56:13 58:12

basic 21:24

basically 30:3
36:14

Basing 56:8

basis 16:9 31:10

Bear 51:9

bearing 38:19

beg 50:18

began 11:16

behalf 6:9,11,13,
17,18,20,22

beings 32:17 56:9

believes 36:12

belonging 24:22
25:1 40:17

binary 24:4 41:24

birth 16:16 17:1,6,
7,14,20 22:25
32:21 33:5 34:1,6
38:19 44:17 45:15
49:2,9,13,23,24
50:8,22 51:7
52:22 53:11
54:10,12,17 55:3,
6,13,25 56:14,19,
21 57:3,6,8,11,14,
17,18 58:1,14,15,
21

birth-assigned
26:11

bit 17:23

blood 29:11

born 51:22 52:4

bottom 52:3,16

bound 7:23 22:13

box 58:1

boyish 25:23

brain 23:8 29:19
30:3,22 31:1

brain-based
61:20

brains 30:6,8,9,
11,19,23,24

Brandt 6:20

breadth 12:5

break 35:23 36:4
59:14,22

bring 39:23 43:2

Buchert 6:22

bullying 46:11

bureau 29:4

C

call 9:3 20:1 26:3
27:7 45:24

called 10:12

capture 38:17

cardiac 61:4

Care 11:19 43:17

carnes 43:4

carries 23:17

carry 46:4

case 9:16 11:11,
23,24 12:13,16
15:3 18:6,17
19:13,17,25 20:2
21:12 35:20
36:18,20,22 37:1,
15 38:7,16 47:15
56:24

cases 9:4 14:16
45:18

categories 24:6,
13 25:2,8

category 24:22
25:2 42:15

caused 30:13

caveat 22:16

certificate 38:19
44:18 45:16 49:3,
10,14 56:19,22
57:3,6,8,15,17,18,
20 58:1,14,15,21

certificates
16:16,17 17:1,6,8,
14,20

cetera 29:19

chance 15:18

change 30:13
35:16 40:11,15
41:17 45:16

changed 43:12

changing 40:22
41:10 45:1 46:14

characteristic
23:3,4

characterize
27:21

characterized
37:22 61:12

Chicago 20:16

child 35:11,13

choice 41:24
61:15,18

choose 61:6,13

chromosomal
23:6

circumstances
60:3

civil 48:16

clarification 9:4

clarify 14:2

Classification
43:21

clean 8:12 36:18

clear 43:18 57:12

cleared 37:8

clinical 10:21
11:14,15 26:13
27:13

close 59:17

comfortable
51:13

comments 8:10

committed 48:19

commonly 27:11

community 25:7,
8

complaint 12:15
13:2,4,19 14:3
16:9 44:11,16

complaints 12:14

complete 9:25
29:15 40:3 47:20

completely 21:8

components
44:6

composite 23:6
56:7

compound 45:9

concept 24:20
34:16,17 55:5,12,
14

conclude 48:6

concludes 63:13

conclusions
13:1

Conclusive
30:16

condition 26:9,15
47:17,24 48:10
55:23

conditions 11:13
35:16,17

confidential
38:20 62:13,15

confined 40:8

confirmed 30:2

conform 58:16

confusing 49:22

congruent 48:3

congruous 55:12

connectivity
36:12

consideration
15:8

considered 24:4
44:5

consistent 21:10

context 45:2 54:5

contextual 40:2

continuing 28:17

continuum 24:4

correct 14:19
15:15 16:5 18:25
27:3 28:5,8 32:22
33:22 36:23 37:4
43:8 48:13 50:10,
23 54:13,24

corrected 48:17
58:20

correctly 38:23
47:5

corrosive 48:23

cortical 31:1,10

counsel 11:1 18:1
37:11 58:4 61:5,
12

count 28:9 59:13

countries 45:20

country 41:7
45:21 57:23

couple 19:23

court 6:4 7:5,8 8:9
36:10 37:8 62:22

criteria 42:3,5,6

**CROSS-
EXAMINATION**
60:12

cultural 25:22

cumbersome
9:18

current 20:2
35:20

cursor 52:8,10
53:7 54:10

cut 53:22

D

damages 14:4,18
15:4,13

data 30:14,16

date 18:7 20:14
56:23

dated 18:7,18
19:15

day 20:18 45:25

dead 30:12

dealing 43:22
51:13

decade 35:16

decision 49:25

decisions 35:14

declaration
18:16 58:5

declaratory
13:19 14:5

decompensation
47:21

deep 24:21

deeply 32:16
61:20

defendant 17:12

defendants 6:7,
8,10,12,14 7:16
12:20 16:14,15,25
17:13

define 12:5 22:21
23:1,4,10 24:17
25:17 26:7 33:21

defined 24:15

defining 33:12

definition 23:23,
25 24:16 31:19
32:19 33:6 39:1,3

definitions 21:24
22:4,14 23:18
39:1 56:17

delay 61:25

delivered 50:4

demonstrates
30:21

demonstrating
31:13

denote 27:18

deny 34:22

departure 55:3

dependent 9:3

depends 31:20
34:19 41:3

deposition 8:5
10:8 20:12,14,15,
18,24 21:3,7,10,
13,18,20 22:8
28:25 29:3 36:13
37:1,2,16 49:11,
18,20 51:15 53:24
54:8 62:16 63:14

depression 47:1

describe 54:9

descriptions
28:24

designation
54:20 55:2,23
56:1,12 57:17,22

desire 42:11,23

determinant 48:7
55:4 56:12

determination
43:15

determine 29:4,
10 31:21 52:20

determined 52:5
55:13

determines
52:13 62:23

develop 24:23

diagnose 29:13

diagnosed 26:9
46:6

diagnosis 12:1
44:18 45:3 49:24

diagnostic 42:2,
6,19

Dianna 6:9 7:20

died 31:13

differences
29:19 30:9 31:13

differentiation

57:1
differently 55:11
differs 56:14
 57:16
difficulty 46:10
dimorphic 23:8
 31:3
DIRECT 10:15
disclose 32:12
discloses 32:9
discrepancy
 56:11
discrete 39:16
discrimination
 47:12
discuss 26:5
discussed 8:3
 35:3 41:12 42:20
 46:8 56:15
discusses 45:1
discussing 42:2
discussion 22:12
 61:11 62:21 63:1
disorder 43:6,7,
 13,18
disorders 43:21
 57:1
distinct 30:22
distinction 14:8
distinguish 33:9
distress 12:8
 26:10,12 34:8
 47:8,10
District 19:13
diversion 33:7
doctor 54:1
doctoral 11:14
document 13:23
 18:5,8,12,17,19
 19:7,12,14,16,19,
 25 20:5,8,9,20
 21:4 39:3,4,5,6
 40:15 48:17,25

59:11 61:1
documentation
 17:19
documented
 10:23 11:8 21:19
documents
 12:11 17:25
 21:17,25 37:13
 40:11,18,23
 41:11,17 44:2,3
 45:2,5 46:15 48:1,
 3,11,14 49:4
 51:11 59:9 60:15,
 22
doula 50:4,7
draft 63:5
drawn 13:1
driver's 40:24
DSM-4 43:5
DSM-5 42:25
 43:2,12,14,20
due 26:10 61:3
duly 10:13
duration 42:8
dysphoria 12:2
 26:7,8,17,18 34:4
 42:3,22 44:19
 45:3 46:25
dysphoric 25:15
 26:3 47:15

E

e-mail 62:22
 63:11
earlier 18:2 38:15
 41:13 61:20
early 24:24 34:15
 43:16
easiest 41:1
education 11:9,
 12 21:22 58:12
effect 44:16
effort 25:6 40:11

element 30:17
 56:8
elemental 24:23
eliminated 43:19
elusive 57:24
emerges 54:19
 56:13
emotional 12:8
empirical 29:2
end 18:6,18 19:15
 20:24
engage 10:6
ensure 8:24
entails 14:18
entire 39:21 45:23
environments
 34:20
essentially 18:24
 20:1
establish 34:10
established
 24:20,24
estimate 39:22
etiology 12:7
 31:10
Ettner 10:1,11,17,
 19,20 13:12,17
 15:18 16:2 17:22
 18:5,16,22 19:12
 21:16 22:21 23:20
 26:25 31:17 35:19
 36:8,17 37:23
 38:6 43:22 44:25
 46:8 49:8 58:25
 60:14 62:2
Ettner's 22:15
 36:15
evaluate 15:12
evaluated 16:3
everyone's 7:3
 10:5
evidence 54:19
 56:13,24

evolution 28:3
 43:4
evolve 28:17
evolved 28:15,16
evolves 47:19
examination
 10:15 50:9,23
 52:8,19 53:12
 54:17 55:14
examples 27:16
 40:7
exception 19:22
Excuse 14:13
 19:2
exhibit 13:5,13,
 17,24 18:3,13,15
 19:8,10,20 20:11,
 12,21 36:19
 37:12,16 38:8
 44:11 51:17,18
 53:3
exhibits 10:25
 11:1 13:8,10 18:1
 36:14 37:22
existed 30:14
exists 55:18
expectation
 25:22
experience 11:9,
 15 12:9 14:15
 21:22 26:25 27:1,
 5 34:2,3 40:14,19,
 21 41:9,21,23
 42:14,22 43:22
 47:1,7,8,10,25
 58:12,20 61:6,11,
 13
experienced
 27:6 34:24
**experienced/
 expressed** 42:7
experiences 16:5
 22:24 26:10
expert 18:4,9,16
 19:11,16 21:11
 22:5,9 35:21
 36:20 37:15 38:7

45:1 52:17
expertise 11:7
12:8 26:16,23
experts 43:14
explain 31:7 56:6
exposing 61:2
exposure 48:19
express 25:4
27:25
expressed 35:20
expresses 42:24
expressing 12:18
expression 39:23
extensive 11:17
52:11,19 53:12
extent 22:7
external 23:7
50:9,23 52:9
55:14,20 56:7,20
extreme 26:10,12

F

facts 31:11
fair 49:11
fall 24:5
falls 25:21
familiar 27:10
fashion 42:24
fear 48:22 61:2
February 18:18
feel 34:21 42:24
51:15
feelings 34:22
felt 32:16 61:20
female 24:13,23
27:23 41:24
52:13,20 57:19,21
61:7,9,14
fetuses 31:15
field 28:7

fight 34:22
filed 19:25
find 20:13,25
44:12
findings 31:18
32:5
fine 58:9
finish 10:1
finished 8:25
focus 21:21 22:14
focused 26:16,23
follow 51:15
53:20 54:6
followup 53:13
force 31:9
forensic 10:21
form 7:25 12:22
15:5 16:6,19 17:3,
16 19:1 20:3 24:2,
9 25:10 26:19
27:8,19 28:18
29:6,25 31:24
32:7,14 33:15
39:13 40:13 41:1,
2,14 43:9 44:22
45:7 46:18 50:11
51:2 55:8,11,15,
16 56:4 58:3 59:4

formed 55:18
Fortunately
26:15
forward 23:17
37:18
forwarded 10:24
13:7 18:1,2
found 31:6
free 51:15
front 13:5,17,22
38:9
full 10:17
function 47:3
functional 30:2,
17

functioning
26:14
future 17:15
56:23

G

gap 62:24
gaps 37:9
gender 11:13
12:1,7,10 22:25
23:9,22 24:17,20
25:2,5,9,14,15,17,
20,25 26:1,3,7,8,
11,17,18,24 27:22
29:13 31:19,22
32:6,8,19,21 33:2,
3,4,7,11,12,20,22
34:2,3,4,7,15,17,
18 35:15 38:20
39:23,24 40:16,17
41:10 42:3,7,8,11,
12,13,16,22,25
43:7 44:19 45:3,
16,19,22,24 46:25
47:15 48:3,7 55:1,
3,6,15,17,18 56:2,
11,17 57:5,13,16,
19,20,21 58:2,13,
16,18 59:2,6
60:15,22 61:17,19
gender-affirming
44:9
genderqueer
27:16
general 8:1 11:7
12:9 16:4 21:6
52:4
generally 54:9
generation 43:17
genetic 31:4,6,8
geneticist 31:6
genitalia 23:8
50:9,23 52:9,12
55:14,20 56:7,21
genitals 51:7
54:17
girl 25:23

girls 35:7,9,10
give 8:23 10:17
15:18,23 39:10,16
44:11 51:19,23
59:14 62:2

giving 8:25
glance 53:10
gonads 23:7
Gonzalez-pagan
6:16 62:14
good 36:1 63:3
government-
issued 39:5
grave 38:22
Great 7:2,11 9:21
11:5,21 14:1
15:16 36:2 38:4
group 34:5
guess 62:22
guidance 45:17

H

happen 34:11
35:4
harassed 48:18
harassment
47:12
hard 50:17 60:8
harm 16:10 38:22
60:16,23
harms 17:5
head 48:19
health 25:13 46:7
47:2 48:8,24
Healthcare 11:18
hear 9:6 32:23
36:8 50:18 60:9
hearing 60:8
helpful 6:4
hemisphere 31:1
higher 47:14

history 26:5 28:3
43:3

home 48:18 50:4

hormonal 30:23

hormones 30:13,
14

hour 35:22

housekeeping
10:24 17:23 37:7

human 23:3,4
32:16 56:9 59:2,5

humans 24:23

humiliated 48:18

humiliation
47:11

hypertension
61:3

I

ICD 43:20

ID 60:22

idea 53:7

ideation 48:4

identification
39:7 46:4

identified 37:13

identifies 39:5

identify 8:19 9:18
18:4 31:8 37:12
42:21

identifying 9:12
29:18,19 33:10
36:14 43:24

identity 22:25
23:9,22 24:17,18,
20 25:2,5,9 26:12
27:22,25 31:19,
20,22 32:6,9,17,
20 33:3,7,13,22
34:3,7 39:3,4
40:11,22 41:10,
11,17 42:25 43:7
44:2,3 45:1,5
46:14 48:1,3,25
49:4 55:1,4,7,15,

18 56:2,11,17
57:6,10,14,16,20
58:2,13,16,17,18,
22 59:2,6,9,11
60:15 61:18,19,21

Illinois 20:16

imagery 30:3

imaging 29:1
30:17

immutable 24:25
32:17

impact 12:19

impairment
26:14

important 8:21
26:14

inability 30:12

inaccurate 17:6,7
54:20 55:23,25
56:1,10

inaction 16:14

inactions 12:19

inaudible 14:4
53:19

incarcerated
47:18

included 25:12
43:1

including 46:11

inconclusive
30:15

incongruence
42:6

incongruent
48:14 60:15,22

incongruity 12:7,
10 22:24 26:10
29:13 32:19 33:2,
7,11,20 34:4,14,
17 35:15 43:24

incongruous
33:10 55:13

incorrect 38:19

increase 61:2

incur 17:5

independent
47:25

individual 22:23
24:21 26:9 32:9,
11 34:18,19 38:21
41:5 45:4,15
47:20 48:21 50:3
52:5 56:15 57:19
59:12

individual's 32:8
55:1,4 61:3

individually
15:14 16:11

individuals 12:1,
10 16:10 17:18,19
24:5 25:15 27:2,3,
6,20 30:7,10 31:5
39:9,11,17 41:16,
17 42:21,22,23
43:23 46:10,23,25
47:13,15,18,25
48:6,9 55:21,22
56:10,25 60:24
61:6,13

infant 57:18

infants 31:12

information 30:1
38:21 48:20
54:23,25

initiate 40:15

Injunctive 13:20

injuries 14:17

injury 15:4

innate 61:20

input 45:17

instance 25:22
39:25 40:24 45:22
50:5 57:17

intentions 41:5

intercourse 23:2

internal 23:7
32:16

International
43:21

interrupt 14:23

intersectionality
61:4

intervention
35:3,4 44:4,6

interventions
30:24 34:9 35:13
46:6

interviewed
12:15 16:3

invades 38:20

involved 14:17

irrevocable
35:18

issue 36:12

issues 29:24
46:12 47:2 48:10,
12,15

J

Jae 6:13

January 18:8

Japan 31:5

Jones 6:3,7,15,24
7:2,11,15 8:16
9:10,21 10:16
12:24 13:7,15,16,
25 14:11,14,24
15:1,2,10,20,25
16:1,12,22 17:9,
21 18:14 19:4,9,
21 20:6,22 22:11,
20 23:16,19 24:7,
14 25:16 26:21
27:9 28:1,22 29:8
31:16 32:4,10,18,
25 33:18 36:5,7,
10,16 37:6,14
38:1,4,5 39:14
40:20 41:8,22
43:10 44:24 45:11
46:19 50:14 51:8,
18,21,25 53:4,5,
16,23 54:2,7,21
55:10,24 56:5
58:6,11,23 59:7,
19,23 61:23 62:6,
9,19,21 63:8,9,11

July 19:15

K

keeping 8:11

KHOLI 12:22

kind 15:4 29:22
62:11

Kohli 6:18,25 7:10
9:14 13:11 15:5,
17,21 16:6,19
17:3,16 19:1 20:3
22:3,19 23:14
24:2,9 25:10
26:19 27:8,19
28:18 29:6,25
31:24 32:7,14
33:15 36:3 37:11,
20 38:3 39:13
40:13 41:2,14
43:9 44:22 45:7
46:18 50:11 51:2,
17,19 52:25 53:15
54:15 55:8,16
56:4 58:3,10 59:4,
21 60:5,9,13 62:2,
8,10,17,20 63:3,7

L

laboratory 29:12

language 43:1
45:25

large 41:20

late 11:16

lawyer 14:7

lay 28:21

leading 48:6

leads 23:23 28:2
48:22

leak 32:24

learn 34:23

lectured 19:24

left 49:3

legal 18:23 44:9
48:7

legally 58:22

legitimizing
58:21

lethal 49:7

license 40:24

lie 59:14,24,25

life 24:24 34:12
45:23 46:5 47:4

light 56:24

Lim 6:13

limitations 40:2,4

limited 11:25
12:3,4 30:11

links 31:6

list 10:25 25:8
42:10 58:18 59:10

listed 57:2,6,14
58:14

literature 11:17

live 35:14 40:16
46:1

lived 34:2 40:18
45:23 58:20

lives 41:4 46:11

living 30:7 58:19

logics 48:6

long 20:23 29:22

longer 26:4 28:5
43:19

looked 31:12

M

made 7:25 8:7
9:13 39:22 43:15
50:5

magnetic 29:1
30:2,17

maintaining
16:17 17:1

majority 33:25
54:18 55:21 56:9

make 8:10 9:15,17
13:11 29:15 35:14
39:17 45:12

makes 50:3,21
54:19

making 7:1 8:12,
20 40:3

male 24:13,23
27:23 41:24 45:22
52:13,20 57:19
61:7,9,14

manifested 42:9

manner 10:6
27:21

Manual 42:19

marked 38:8 42:6
62:12,15

marker 38:20
45:16 57:21 58:18

match 32:21 33:4,
11,12 55:2

Matt 6:7

matter 10:24
11:22,25 18:22
31:2 37:7

meaning 33:11

means 8:6 33:3

medical 25:7 26:8
29:11 35:4,12
38:21 44:4,5,8
45:2,6,17 46:2,3,7
47:16 49:24,25
52:12,18

medicine 24:21

Meeks 7:11 8:13,
16 9:11

Meeting 8:2

mental 46:7 47:2
48:8,24

mentioned 13:13
61:12

met 43:15

microstructures
31:2

mind 9:2 39:4

minor 19:24

minute 10:23 11:6
60:6 62:3

minutes 15:23
35:25 36:1,2,3
59:16,20

modify 39:23

moment 20:4,14
28:24 44:10 49:9
51:9,23

months' 42:8

morning 10:25

move 35:19 37:18

moving 18:15
19:10 24:15 42:1
49:3

multiple 40:25

multiplying
28:20

mundane 49:5

mute 6:3 7:5 9:8
61:24

N

narratives 16:8

national 47:14

natural 47:16

nature 16:4 32:12

necessarily
27:22 33:21 35:5
50:1 51:1

**neurodevelopme
ntal** 31:9

newborn 52:19

non-binary 27:16
41:13,15 42:21

non-transgender
30:10,24

nonconforming
25:14,18,20 26:1

nonconformity

<p>25:25</p> <p>noncongruent 48:22</p> <p>normal 9:5 46:5 50:8,22</p> <p>norms 47:11</p> <p>northern 30:25</p> <p>noted 53:2</p> <p>nuanced 27:24</p> <p>number 13:24 18:13 19:8,20 20:21 24:8 39:17 51:20</p> <p>numbers 37:12</p> <hr/> <p>O</p> <hr/> <p>oath 7:23</p> <p>Object 23:14</p> <p>objecting 8:19</p> <p>objection 7:7 8:20 12:22 13:9 15:5,17,19 16:6, 19 17:3,16 19:1,3 20:3 22:4,6,9,18 23:17 24:2,9 25:10 26:19 27:8, 19 28:18 29:6,25 31:24 32:7,14 33:15 37:21 39:13 40:13 41:2,14 43:9 44:22 45:7 46:18 50:11 51:2 52:14,25 53:1,15 54:15 55:8,16 56:4 58:3 59:4 61:24 62:1</p> <p>objections 7:1,24 9:1,14,15 15:21 23:15 50:18 53:2</p> <p>objective 31:17, 18,21 32:5</p> <p>observation 56:20</p> <p>occasion 9:19</p> <p>occupation 10:20</p>	<p>occupational 47:3</p> <p>occur 31:14 39:19</p> <p>occurred 46:16</p> <p>occurs 35:1,2</p> <p>odds 34:6</p> <p>offer 35:12</p> <p>offering 16:13,24 17:4,11 27:17</p> <p>oftentimes 27:25 45:20</p> <p>Ohio 19:13 22:5 36:20</p> <p>Omar 6:16 62:11</p> <p>one's 42:7,13</p> <p>opinion 11:10,23 17:4,17 35:20 45:3,14 46:22 49:12 50:25 52:17 54:22 56:2,18 57:3,5,13,20 58:2, 8,12 59:8</p> <p>opinions 11:24 12:5,6,19 15:9 16:4,13,24 17:12, 24 18:25 19:6 20:1,9 21:11,22, 23 22:1 23:11 36:22 37:3 38:13, 15 56:20 58:7</p> <p>opportunity 21:2, 8</p> <p>option 41:11</p> <p>order 8:24 13:8 63:10</p> <p>Organization 11:19</p> <p>organizations 25:12</p> <p>organs 23:7</p> <p>original 63:10</p> <p>outage 14:6</p> <p>outcome 49:7</p>	<hr/> <p>P</p> <hr/> <p>pain 34:24</p> <p>pairs 23:6</p> <p>paper 51:13</p> <p>paragraph 38:12, 13,18 42:1,5 46:24</p> <p>pardon 50:18</p> <p>parenthetical 42:12</p> <p>part 11:9 32:1 44:3 59:2</p> <p>participating 60:2</p> <p>party 8:8 22:13</p> <p>pass 60:3</p> <p>passport 40:24</p> <p>past 14:16 25:24</p> <p>patient 48:16</p> <p>patients 40:21 41:9</p> <p>pause 8:23</p> <p>pee 35:7</p> <p>people 16:5 17:5 24:12 25:4 26:17 28:21 30:12 33:25 34:1,5,8,9,15,20 35:1,5,14 40:1,2, 3,14 41:6,7 45:18, 23 46:1 54:18</p> <p>percent 39:22 47:13</p> <p>percentage 39:10</p> <p>period 39:19</p> <p>person 7:24 8:21 33:21 38:19 39:5 41:4 51:22 52:3 57:9 58:19</p> <p>person's 23:22 31:20,22 32:5 33:2,3 34:12 41:4 44:17 52:12 55:6</p>	<p>57:2,5</p> <p>personal 14:17 15:4</p> <p>perspective 15:13 29:16</p> <p>ph 43:4</p> <p>PH.D. 10:11</p> <p>Phd 19:12</p> <p>phenotypes 30:4,22</p> <p>phrased 24:11 45:10</p> <p>phrasing 60:20</p> <p>physical 29:18 38:22 48:23</p> <p>physician 50:5,7</p> <p>place 9:7 20:15 40:23 41:1 51:5</p> <p>places 38:21</p> <p>Plaintiff 19:14</p> <p>plaintiffs 6:15,17, 19,21,23 7:16 9:13 12:12,16,20, 23 14:3 15:3,12 16:3 17:7,14</p> <p>plaintiffs' 10:25</p> <p>planning 48:4</p> <p>platform 8:5</p> <p>point 27:4 34:23 35:2 36:13 39:20 41:18 44:1 46:14 48:9</p> <p>pointed 37:23</p> <p>points 35:1</p> <p>posed 52:16</p> <p>possibility 34:17</p> <p>potential 9:1</p> <p>practice 27:14 48:15</p> <p>preceding 53:19 54:5</p> <p>precisely 44:12</p>
---	--	---	--

predicated 44:18
predominantly 30:25
premarked 13:8, 24 18:13 19:8,20 20:21
prenatally 31:13
preparation 49:9
prepared 19:17 21:12 38:7
present 12:13 42:23
presentation 25:20
presented 36:19, 25
prevent 40:2
previous 8:24 43:5
previously 15:7 30:5 32:15 38:25 42:20
primarily 41:23
primary 45:24
prior 14:12 21:18 28:25 30:14,19,23 36:15 43:15 46:9 49:11,18,19 51:15 53:2
prison 39:25 40:8, 9
privacy 38:20 48:20
problematic 55:22
procedure 51:6
proceed 7:12,19
proceedings 18:23
process 39:11,20 40:6,10,12,22 50:8,22 51:1,5
produce 49:4
produced 43:18

profession 25:7
professional 11:18 25:13 45:6, 17
progression 47:16
promulgate 11:20
provider 46:7 52:12,18
proxy 54:17 55:21
psychiatric 25:7
psychological 38:22 47:20
psychologist 10:21
psychology 11:12
psychopathy 48:4
publication 43:16
publicly 48:18
published 43:14
Puneet 6:18 7:7 9:14 13:7 22:18 23:17 37:19 60:4, 7
purpose 7:3
purposes 8:11
put 7:18 15:21 40:25

Q

qualifications 10:22 11:8 21:19
question 7:25 8:22 10:4 11:7 16:21 17:11 21:6 24:11 29:3,7,9,21, 23 32:1,23 33:17, 19,24 42:14 43:11 44:15,25 45:9,10 46:13 50:13,19 51:14,22 52:3,7,

10,15 53:6 54:8 56:18 57:25 58:25 61:16,24 62:11
questions 10:16 22:7 28:2 37:25 40:25 53:19 54:5 58:4 59:16,25 60:1,4,13 62:5

R

raise 15:19
raised 45:19
Randi 10:11,19 18:5,16 19:11
rare 55:23
Ray 19:14,25 36:20 37:1,15
reach 26:13
reactivity 61:4
read 7:17 9:23 13:2 16:7 21:2 28:24 38:23 47:5
ready 37:18,19 38:2
reason 58:17
recall 7:22 8:14 21:2,9 48:25 49:2 61:5,10
recalled 37:24
receive 11:1 47:18
recent 28:21
recognize 18:8, 19 19:16 20:17
recognized 36:21 40:16
recognizing 33:19
record 6:25 7:17 8:18 9:6,23,24 11:6 15:22 36:6, 10 37:12 51:6 52:25 59:19 61:17 62:1,8

recorded 8:6 55:2 56:19 57:11,18 59:9
recording 8:7 16:16 17:1 50:3 56:21
records 50:6 58:2
redirect 62:6
reduces 48:3
redundant 12:17 59:10
refer 13:9 23:21 41:19 44:10 49:10,19,21 58:19
reference 49:18
referred 25:24
referring 38:6
refers 22:23 24:21
reflect 40:18 59:12
reflects 58:21
regard 16:16 17:1,13 21:23 23:25 29:18,24 37:21 44:8
related 46:12
releases 38:20
relied 11:16
Relief 13:20
relying 11:10,12
remember 43:12 60:14,17
reminded 9:11
remotely 7:23
removal 47:22
remove 43:13
render 11:10
rendered 11:23, 24 20:2 21:11
rendering 38:16
repeat 10:4 13:14 16:21 29:21 32:23

49:15 50:12,19
53:21

repetition 36:18

rephrase 32:2
46:20

report 18:4,9
19:11,17 21:11
22:5,9 35:21
36:20,21 37:15
38:7 42:2 45:1
46:9

reporter 6:5 7:5,
8,13 8:9,17 9:20
14:10,13,22 15:1
36:11 37:8 53:21,
25 54:3 62:22
63:6,9,12

reports 18:24

represent 6:6

representing 6:8

reproductive
23:7

request 57:4

requested 8:8

requests 41:16

require 17:19
34:9 46:4

required 39:7

requires 56:12

research 28:19,
25 41:18

resembled 30:24

reserved 7:24

resonance 29:1
30:2,17

resource-poor
34:20

Respite 18:20

responding 8:24

responds 63:1

result 23:9

return 59:16

reveal 48:16

60:23

revealed 30:9

Revealing 48:14

revelation 48:20

review 20:5 21:8
37:24 52:11 62:18

reviewed 12:11,
14 21:13,16,17

reviews 20:8 21:4
51:11

risk 38:22

Roessler 6:20

rough 63:5

S

sake 8:18

Sara 6:11

Sasha 6:22

scans 29:19

scholarly 41:19

school 46:11

science 29:17,24
30:18

scientific 28:14,
19,23

scope 15:9 58:5,7

scroll 21:1

seconds 15:23

secret 48:21

Sedgwick 6:11

seek 45:5,15

seeking 14:4 15:4
43:24,25 44:1,3

segment 31:1
41:20,21

self-affirmed
32:20 33:3

semantics 18:23

send 63:4

sense 24:21,24
34:6

sentence 9:25

separate 58:18

September 20:15

servant 48:16

serviceable 56:9

set 40:7

seventh 43:16

severe 26:12 34:8

severely 47:15

sex 22:24 23:1,2,
3,4,6,12,13,21,25
24:1,3,16 26:11
30:20,21 33:4
34:1,6 46:2 49:13,
24 50:8,22 51:6
52:5 54:18 55:4,6,
13,21,25 56:7,8,
12,17,18 57:2,10,
16 58:17,19,20
59:1,2,12

sexes 24:1,8

sexual 57:1

sexually 23:8

Shew 6:9 7:20

short 8:23 36:4
59:22

shot 48:18

sic 22:9 42:15

sign 21:2 62:18

significance
26:13

significantly
48:5

similar 27:12,15

simple 41:1

simpler 45:12

simply 8:5 33:2
58:1

sir 7:13 8:17 54:3

sitting 35:10

situation 34:20
40:5

slowly 9:24

small 41:21

social 28:13
39:11,18 40:3,6,
10 43:25 44:2,5,6
46:14 47:4,11

socially 58:22

society 40:9 46:5

socioeconomic
34:19

sort 11:7 14:4
34:11

sounds 63:3

southern 9:24
19:13

speak 8:22 9:8,24
25:11,23 60:7

speaker 8:25

speaking 7:4
10:2

speaks 25:14

specific 29:23
53:2

specifically
17:15 46:24

Speculative
44:23

spoken 12:15
16:11

Stacie 19:14

stage 43:23

stand 35:7

standard 51:6
63:4

Standards 11:19
43:17

standing 22:6
23:14,16 53:1

start 6:6 10:7 11:6
21:24 40:23 41:1

started 39:11

<p>40:22</p> <p>starting 43:25</p> <p>state 16:17 17:2 29:17,24 30:18 41:4 49:3,4</p> <p>stated 28:4,6</p> <p>states 57:22</p> <p>Statistical 42:19</p> <p>stenographic 8:6</p> <p>step 34:12 49:8</p> <p>steps 39:18</p> <p>stereotypically 25:21</p> <p>steroids 30:20,21</p> <p>stick 28:23</p> <p>stigmatization 47:12</p> <p>stipulate 9:16</p> <p>stipulations 7:16,18,21 8:14 9:23</p> <p>stress 61:4</p> <p>strong 42:11,23</p> <p>structures 23:8</p> <p>studies 29:2 31:5 48:2 61:1</p> <p>study 48:5</p> <p>style 18:6,17 19:12</p> <p>subject 11:22,25 22:6 47:11 53:1</p> <p>subjective 32:6, 12</p> <p>Subparagraph 42:10</p> <p>suffer 16:10 46:10</p> <p>suffered 15:14</p> <p>suffering 46:15, 17</p> <p>suicidal 48:4</p> <p>suicidality 47:1</p>	<p>suicide 47:13,23 48:19</p> <p>summary 38:13</p> <p>supervision 11:15</p> <p>surgery 35:17</p> <p>surgical 46:5 47:21</p> <p>swear 7:8</p> <p>sworn 7:14,22,24 9:22 10:13</p> <p>sync 34:2</p> <p>system 39:25 40:8</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>takes 51:5</p> <p>talk 24:12 40:9 55:20</p> <p>talked 56:16</p> <p>talking 9:11 30:18</p> <p>task 8:11</p> <p>technology 30:4, 6</p> <p>ten 47:14</p> <p>Tennessee 16:18 17:2</p> <p>term 23:1,10,11 26:4 27:10,11 28:4 43:5</p> <p>terminology 26:6 28:3,13</p> <p>terms 21:25 22:8, 15,17 27:12,15,18</p> <p>test 29:4,9,11,12</p> <p>testicles 47:22</p> <p>testified 10:13 20:13 27:2 36:21 37:2 38:15 50:7</p> <p>testimony 14:12, 16 21:9 36:15 37:2 46:9 49:10 58:5 62:24</p>	<p>tests 31:18,21</p> <p>themselves 24:22</p> <p>thing 8:3 9:10 13:12</p> <p>things 19:23,24 33:12,14</p> <p>thinking 41:12</p> <p>thought 61:19</p> <p>time 7:6 8:22,25 39:19 48:23 51:6 52:21 54:11 55:2 57:8 60:8</p> <p>timeframe 56:14</p> <p>timeline 34:11</p> <p>times 47:14</p> <p>title 19:11</p> <p>titled 18:15</p> <p>today 9:15 21:9, 21 22:14 52:23 53:14,18 54:14,16 60:2,17 63:5</p> <p>toilet 35:10</p> <p>told 59:23</p> <p>tomboy 25:24</p> <p>tomorrow 63:5</p> <p>tonight 62:22</p> <p>training 11:9,13 58:13</p> <p>trajectory 47:19</p> <p>transaction 49:6</p> <p>transactions 39:6</p> <p>transcript 8:12 20:12,17,18 22:5, 7 36:25 37:16,24 53:2 62:18</p> <p>transgender 11:18 16:5 17:5 25:13,14 26:2 30:9,23 38:18 40:1 45:4 46:10, 23 47:25 56:25 60:24</p>	<p>transgenderism 22:22,23 28:15 29:5,10,20 46:13</p> <p>transition 34:18 39:18,21 40:3 43:25 44:2,5,7 46:14</p> <p>transitioned 17:18 57:9</p> <p>transitioning 39:12 40:6,7,10</p> <p>transsexual 28:4 45:25</p> <p>transsexuals 26:4</p> <p>trauma 12:8</p> <p>traumatic 49:6</p> <p>treatable 26:15</p> <p>treated 27:1,5 39:8</p> <p>treatment 12:1 26:17 43:25 45:2 46:25 47:19,22</p> <p>treatments 44:9 46:3</p> <p>trick 43:11</p> <p>trouble 51:3</p> <p>true 23:12,13,21 24:15,16 26:18,22 56:17 57:2 58:19 59:2</p> <p>truthful 21:10,14 37:3</p> <p>truthfully 37:25</p> <p>type 29:12</p> <p>types 29:1</p> <p>typically 24:3,12, 22 25:24</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>ubiquitous 32:16</p> <p>unable 47:3</p> <p>underpinnings 31:9</p>
---	---	--	--

understand 7:15
10:3 14:3,8,18,25
16:21 17:10
22:11,12,17 30:12
33:16,24 34:16,
21,25 46:20 48:5
49:16 58:7

understanding
12:7 22:15,17
24:10 28:13,14,20
29:15 34:13 52:4,
7 56:23

unfortunate
31:14

unique 27:24
42:24

universal 41:6
61:21

university 11:14

unpack 59:1

unusual 60:3

updated 19:23

updating 19:22

urinalysis 29:12

V

Vague 44:22

variance 26:24

varies 34:18

vast 33:25 55:21

verbatim 42:18

versus 33:12

video 8:5,7 9:3

view 30:6

viewed 31:18

violate 47:10

violation 48:20

violence 47:12

visual 53:12

W

wanted 8:10 11:6
14:2 38:14,16
43:3

ways 25:4

Webex 8:2,11

white 31:2

willingness 10:6

women 30:23,25

wondering 53:7

word 24:17 43:13,
18 51:4 53:7,22

work 11:14,15

worked 12:9

working 28:7

World 11:17
25:12

worse 48:22

worst 59:14

WPATH 25:14

wrapping 59:17

written 16:8

wrong 49:13 51:1,
4

wrote 42:10,12

Y

years 28:8,10,11,
12,21

yesterday 7:17,
21 8:15 9:13
22:12

young 25:22 35:6